

MARYLAND DEPARTMENT OF NATURAL RESOURCES

JOINT MEETING OF SPORT AND TIDAL

FISHERIES ADVISORY COMMISSION

HELD AT

CALVARY UNITED METHODIST CHURCH

301 ROWE BOULEVARD

ANNAPOLIS, MARYLAND

ON

TUESDAY, APRIL 26, 2010

FROM

6:35 P.M. TO 9:01 P.M.

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1                   P R O C E E D I N G S

2                   MR. GRACIE: Well, I want to welcome  
3 everybody to a joint meeting of the Sport Fish and  
4 Tidal Fish Commissions. Jack Brooks, the Chairman of  
5 the Tidal Commission Fish Commission, and I have been  
6 alternating Chairing these meetings, and it's my turn  
7 tonight. So you have to put up with me.

8                   I'd like to get started. We do -- a couple  
9 of notes. We absolutely have to finish at nine. The  
10 church, apparently, has had some theft or burglary  
11 problems, and they have a security person here. And  
12 they're going -- they're only going to be here till  
13 9:30. They want us to finish the meeting at nine and  
14 be out of the building by 9:30. So I'm going to stick  
15 to the schedule here as much as possible. And we will  
16 finish at nine.

17                  Are there any announcements other than what's  
18 on the agenda? Marty.

19                  MR. GARY: Jim, the only thing I wanted to  
20 mention is we have one proxy here tonight. For Steve  
21 Gordon, it's Guy Simmons, seated directly to my left.

1 And our court reporter for tonight is Hunt Reporting.  
2 Sharon's our court reporter. And she's mapped  
3 everybody in the room. And just standard protocol,  
4 make sure everybody speaks clearly and identifies  
5 themselves, and that includes members of the public.

6 MR. GRACIE: And don't change seats. She's  
7 mapped everyone.

8 I have a request to make a change in the  
9 agenda. Ed O'Brien may have to leave earlier than we  
10 get to this. So if I hear no objections, I'm going to  
11 move that our Mid Atlantic Council Recap and ASMFC  
12 Briefing up to right after the NRP report. Anybody  
13 have a problem with that?

14 In addition to that, we're not quite sure how  
15 to handle this, Marty, but Ed wants to know if he  
16 leaves early, can I vote his proxy?

17 MR. GARY: My recollection, Tom, is I don't  
18 recall that being an option available in the  
19 operational guidelines.

20 MR. O'CONNELL: Do you have internet access?

21 MR. GARY: We do not. We don't have any

1 internet access.

2 MR. GRACIE: All right. So we'll pass on  
3 that, then.

4 Okay. Do we have an NRP report? Sorry. I  
5 didn't see you.

6 LT. JOHNSON: That's okay.

7 I'm going to stick with the agenda, and make  
8 this very quick.

9 Those of you who got this early, I've got 20  
10 copies here. So if you already got one -- okay. Just  
11 pass these out.

12 Is it okay to stand here, or is there --  
13 should I sit somewhere?

14 MR. GRACIE: That's fine. Whatever you like.  
15 That's great. We can all see you.

16 MS. JOHNSON: All right. For those of you  
17 guys who've seen the agenda that was mailed out to you  
18 on Friday, I'll just make this real short and sweet  
19 since you've already read it.

20 But, in short, under the tidal fish, a few  
21 cases remain for undersized conch, flounder, and tautog

1 over on the Eastern Shore.

2 In the striped bass realm this month,  
3 obviously all the gill netting had stopped, but five  
4 illegal striped bass cases were made. One case,  
5 apparently, they just found some abandoned striped  
6 bass. So there was no suspects or cases made with  
7 that. They must have ran off.

8 One oyster case was made over in Somerset  
9 County. Two for crabs -- two closed season crab cases  
10 were made and two undersized crab cases were made over  
11 on the Eastern Shore, as well.

12 This month you can really tell the non-tidal  
13 section of our cases really picked up. Obviously, the  
14 nice weather that -- the stocked trout streams and a  
15 lot of fisherman out. So all over the state -- and a  
16 lot of these cases you'll see are out west, obviously,  
17 for the stocked trout streams.

18 In short, without reading every single one of  
19 those -- and I'm sure that there's a few more cases  
20 that aren't on here, but these were the ones that made  
21 the briefing report each week. But, in short, just

1     since the last meeting, our officers made eight closed  
2     season cases, where the streams are closed right after  
3     stocking, guys going in fishing. We made eight closed  
4     season cases, five over the limit. And one of those  
5     over the limits was in Howard County where Corporal  
6     Fisher, in two days, charged three subjects. One guy  
7     had eight trout in a two-trout limit area down at  
8     Daniels, I'm sure you're familiar with that.

9             Out in Garret County, we made three illegal  
10    bait cases. Twelve citations, total, were issued to  
11    individuals in that area for bait in a delayed harvest  
12    area. In Frederick County, we've got a youth or blind  
13    area where we caught -- we made two cases with adults  
14    fishing in that area right after it was stocked. And  
15    then three in different areas on the Western Shore,  
16    illegal use of casting nets, one of which was in a  
17    trout stream in Washington County.

18            So you can really see that -- and one of our  
19    cases, actually, in Frederick County, we heard that  
20    right the week of stocking, an individual was going in  
21    there with a net in the night and getting them out. So

1     our officers, actually, worked the fishing grant,  
2     working a lot of overtime trying to catch them in the  
3     middle of the night. And just the other night, on the  
4     23<sup>rd</sup>, we did -- one of our officers did catch somebody.  
5     It just wasn't the guy that we were looking for. He  
6     wasn't using a net, he was just in there at, you know,  
7     oh dark-thirty fishing.

8                 So that's it.

9                 MR. GRACIE: You got a question?

10                MR. VAN ALSTINE: The fishing grant, could  
11     you elaborate what fishing grant you were referring to?

12                LT. JOHNSON: Sure. The Natural Resources  
13     Police was granted \$50,000, okay. Don, can you  
14     elaborate. Was it from the Fed?

15                MR. COSDEN: Yeah. That was Evan's Fishery  
16     money.

17                MR. VAN ALSTINE: It wasn't the crab  
18     disaster?

19                MR. COSDEN: No.

20                LT. JOHNSON: Oh, no. No. No. That's a  
21     completely different grant.

1                   MR. VAN ALSTINE: I just wanted to verify  
2     that.

3                   LT. JOHNSON: That grant is even way bigger.

4                   MR. VAN ALSTINE: I just wanted to verify  
5     that crab money wasn't going anywhere.

6                   LT. JOHNSON: No. It's not going for trout.  
7     We have our own money for that. Okay. Yes.

8                   MR. SIMMS: You know, on these striped bass  
9     fishing out of season, are they recreational or  
10    commercial?

11                  LT. JOHNSON: It sounds -- yes. 'Cause  
12    they're small. It wasn't, like -- when you see tons of  
13    pounds and, like, 50 striped bass, that's commercial.  
14    When you see these smaller cases where one or two  
15    citations, it's recreational. And that's really going  
16    to pick up now that, you know, it's getting nice out  
17    and the recreational guys are coming out. So, okay.  
18    Yes.

19                  MR. GARY: Kelly, one other thing. I had  
20    passed on an email, I'm not sure if you got it or not -  
21    -



1 LT. JOHNSON: Yes. I did.

2 MR. GARY: -- about the fish houses?

3 LT. JOHNSON: Yes.

4 MR. GARY: Do you have any information on  
5 that?

6 LT. JOHNSON: No. Everything is still under  
7 investigation, and everything is still very active. So  
8 we don't have any information to share on that.

9 MR. GARY: And just so everybody knows, Kelly  
10 has passed around this handout, but it was inserted.  
11 It would have been our preference to be in  
12 chronological order, but it's in NRP activity reports  
13 under Tab 14.

14 LT. JOHNSON: Okay. Thank you.

15 MR. GRACIE: Okay. Mid-Atlantic Council  
16 recap, and ASMFC briefing. Tom.

17 MR. O'CONNELL: Sure. The only thing of  
18 significance that Harley Speir mentioned to me at Mid-  
19 Atlantic Fisheries Management Council is related to  
20 black sea bass. I'm going to cover that when I go  
21 through the ASMFC agenda items.

1           Larry, I don't know if you wanted to provide  
2   an update on anything from the Council's perspective  
3   before I move into ASMFC.

4           MR. SIMMS: I don't have anything to add.

5           MR. O'CONNELL: Okay. I'm going to be  
6   following the ASMFC spring agenda which should be in  
7   your folder.

8           Do you know what tab it's in?

9           MR. GARY: Tab 13.

10          MR. O'CONNELL: Tab 13. There are a few  
11   items that I just want to bring to the Commissioner's  
12   attention. On Monday -- Mondays are usually a light  
13   meeting week, as people are traveling from the Atlantic  
14   Coast come in. One thing that may be of interest, is  
15   Monday evening from seven to 8:30 there's actually  
16   going to be a public hearing on the Mid-Atlantic  
17   Fisheries Management Council's Omnibus Amendment on  
18   Annual Catch Limits and Accountability Measures.

19          What these are, in summary, is if you've seen  
20   us talk about, like, targets, biological reference  
21   points for certain species. Well, the National Marine

1 Fisheries Service is adding some additional  
2 accountability measures to account for uncertainty that  
3 surrounds those targets and reference points. And this  
4 is an omnibus amendment that would be applied across  
5 the board to all of their fisheries management plans  
6 for the Federal waters.

7 So I'm sure there's information on line at  
8 the website, here. It sure is an opportunity to  
9 provide, you know, public comments via email or  
10 written. Or if you want to come and see the  
11 presentation, that'll be Monday night.

12 On Tuesday is the Summer Flounder, Scup, and  
13 Black Sea Bass Management Board's meeting. You know,  
14 we should get final approval on our summer flounder  
15 season. We don't expect any problems. We went forward  
16 with the April 17<sup>th</sup> through November 22<sup>nd</sup>.

17 The one issue related to black sea bass  
18 management measures for 2010 is still unresolved. The  
19 Atlantic States Marine Fisheries Commission had  
20 approved one set of rules for the state waters and the  
21 Mid-Atlantic Fisheries Management Council has set forth

1 a different set of rules. And the differences are  
2 really for the season. It's not the creel or the size  
3 limit.

4 At the last Council Meeting a week or two  
5 ago, they reversed their recommendation to the National  
6 Marine Fisheries Service and has recommended that the  
7 National Marine Fisheries Service adopt measures  
8 consistent with those in state waters that were  
9 approved by ASMFC. We're still awaiting the final  
10 ruling from the National Marine Fisheries Service, but  
11 you get the indication that they are going to move  
12 forward, you know, to have measures consistent with  
13 ASMFC. Those measures would be having the season from  
14 May 22<sup>nd</sup> to mid-September. I can't remember the exact  
15 date.

16 The one, maybe, somewhat encouraging news is  
17 the Wave Five Data from MRFS that has not been made  
18 available yet. And there's some indication that the  
19 harvest may be a bit lower than projected. If that is  
20 the case, then the National Marine Fisheries Service is  
21 going to provide some flexibility in their rule making

1 to allow the season to be extended if the harvest is  
2 lower than projected. So we may be in a position to  
3 have a longer season than it ending in mid-September.

4 Moving forward, the Atlantic Striped Bass is  
5 also on Tuesday. The major item on the agenda is  
6 consideration of a draft addendum that would allow a  
7 lot of the states to increase the coastal commercial  
8 quota for striped bass. This is not related to the  
9 Chesapeake Bay quota. This is for the coastal  
10 commercial quota.

11 At this point in time, this is the Board's  
12 consideration of a draft addendum to go out for public  
13 review. It's not a final decision. It's a public --  
14 it would be going out to public hearings and then come  
15 back to the Board in August for action on whether or  
16 not the addendum is approved or not.

17 We talked about this item at both commission  
18 meetings prior to this year, and we've spoken to our  
19 Coastal Fisheries Advisory Committee last week. My  
20 understanding is -- I have not seen the document yet,  
21 but the draft addendum that's to be presented to the

1 board would have a series of options for the Board's  
2 consideration, which range from increasing the coastal  
3 quota from 20 percent to 30, 40, up to 50 percent.

4 I imagine the Board may fine tune that if  
5 they decide to approve it to go forward for public  
6 review. It's been an issue that's been discussed for  
7 at least a year now. Every single vote has been very  
8 close, decided by one vote, typically.

9 And just to refresh your memory, looking back  
10 in my notes, Sport Fish Advisory Commission had  
11 entertained a motion on this item. Tidal Fish Advisory  
12 Commission made a motion to not approve, and actually  
13 looked to reduce the recreational fishery in North  
14 Carolina and Virginia. And the Coastal Fishery  
15 Advisory Committee approved, not unanimously, but  
16 approved the Department, supporting, at least at this  
17 point in time, to allow the addendum to go forward for  
18 public discussion.

19 As you may know from previously, increase in  
20 the coastal commercial quote for striped bass is a high  
21 priority of our commercial fishermen down there.

1           So that's kind of where we're at. I'm  
2     meeting with my staff and our commissioners tomorrow to  
3     look at our technical -- the technical input from my  
4     staff as we prepare for next week's meetings. So we  
5     have not yet come to a decision point on that.

6           MR. SIMMS: Tom, I just our standard just to  
7     communicate what -- I think what we talked about was  
8     taking the extra for commercial fishermen from the  
9     recreational fisherman not adding to the whole overall  
10    quota. That was what our discussion was about.

11           So -- just so you don't get that confused  
12    that we were against increasing the recreational -- I  
13    mean, the commercial quota. We said if you're going to  
14    do that, instead of increasing the overall quota, is to  
15    take from the recreational to balance it. That way you  
16    only got -- if it's out of balance by 20 percent, you  
17    only got to take 10 percent and it balances it up.

18           MR. O'CONNELL: Well, I'll have to go back  
19    and look at the notes. I looked at the February  
20    meeting notes, and I -- the first motion was what I  
21    just described. So maybe there was a subsequent motion

1     that describes that. I remember you telling me about  
2     that following the meeting, though.

3             So, that reminds me. The draft addendum  
4     (unintelligible) ASMFC staff will have the 20 to 50  
5     percent increase is another option that they put in the  
6     document. And it's come largely from the New England  
7     states' input that only allow the -- allows states to  
8     increase their coastal commercial quota only if they  
9     reduce their recreational quota equally. So it would  
10    be kind of a no-net gain for, you know, harvest. So --

11            MR. SIMMS: That's kind of what we talked  
12    about, too.

13            MR. O'CONNELL: So, that's likely to be a  
14    contentious, but not, maybe, as contentious issue yet,  
15    because it's not at a final decision point.

16            MR. GOLDSBOROUGH: Larry was talking about  
17    balancing it, and it makes me wonder, do we have a  
18    policy to seek a 50/50 split in the striped bass catch?  
19    At one time, way back, we were at 42 and a half, 42 and  
20    a half to 15.

21            MR. SIMMS: In Maryland. In Maryland.



1 That's Maryland.

2 MR. GOLDSBOROUGH: Well, this is the coast of  
3 Maryland this would have been.

4 MR. SIMMS: Well, this is coastal -- bulk of  
5 it.

6 MR. O'CONNELL: The coastal management along  
7 -- the management for the coastal fishery along the  
8 Atlantic coast is set by a fixed quota for the  
9 commercial guys and a size and creel limit for the  
10 recreational fishery. There is no, you know, hard  
11 quota for allocation between the coastal fisheries.

12 In the Chesapeake Bay we have the allocation  
13 that you just described, Bill.

14 MR. GOLDSBOROUGH: Well, you were talking  
15 about the coast, weren't you?

16 MR. SIMMS: Talking about the coastal, yeah.

17 MR. GOLDSBOROUGH: So you're saying if there  
18 was a 20 percent difference between commercial and  
19 recreational, all you'd have to do is reduce the  
20 recreational 10 and bring the commercial up by ten, and  
21 they'd be balanced?

1           MR. SIMMS: Well, I don't know if that number  
2 comes out right or not, but what I'm saying is instead  
3 of increasing the overall quota to give the commercial  
4 the 20 percent to balance it out, then you should just  
5 level it out instead of adding to the quota.

6           MR. GOLDSBOROUGH: Well, I agree with that  
7 concept, if you're going to increase one and, you know,  
8 not have any net increase the way things are right now,  
9 but I was wondering if that was implying -- if you were  
10 implying that we had a target 50/50 we were trying to  
11 achieve between the two on the coast?

12           MR. SIMMS: I don't know what that target is  
13 on the coast. I don't know what the percentage is. I  
14 just said I know that they're -- that recreational is  
15 20 percent more than what they're supposed to be, and  
16 so if you level that out.

17           MR. GRACIE: All right. Let me just clarify  
18 it in my mind. I think what you're saying about the  
19 position you guys took was to not increase the overall  
20 harvest; is that correct?

21           MR. SIMMS: Right. That was the -- well,

1 we're not opposed to --

2 MR. GRACIE: Anything you increase on the  
3 commercial, you decrease recreational?

4 MR. SIMMS: Right.

5 MR. GRACIE: Thank you.

6 MR. O'CONNELL: The one thing I'll offer the  
7 Chairpersons is, you know, Ed O'Brien is on the Striped  
8 Bass Advisory Panel member. If you want to -- I know  
9 they met recently on this issue if you want to hear any  
10 perspective from the --

11 MR. GRACIE: I'd like to.

12 MR. O'CONNELL: -- advisories along the  
13 coast.

14 MR. GRACIE: Ed, are you prepared to say  
15 something?

16 MR. O'BRIEN: In a conference call about two  
17 weeks ago on this issue, they went back to their  
18 original vote when they got together up here in  
19 Baltimore, which was status quo, which could be -- fit  
20 into their equation. But they don't look at it that  
21 way. That group is commercial -- is recreational

1 oriented.

2           You've got the gentleman from New York who is  
3 very much for increasing it. But they want to -- they  
4 don't -- what keeps coming up from these advisors from  
5 the other states is this, "We don't see the fish" --  
6 "We're seeing less and less fish" -- "How can we have  
7 more fish caught?" That's -- so that's basically their  
8 attitude.

9           They also had a very interesting proposal  
10 from New Jersey. And New Jersey, based upon the fact  
11 that they don't have a commercial fishery, wants to go  
12 to a 24-inch fish for a certain number of fish that  
13 they equate to what the commercial would have caught.  
14 Now, the interesting thing -- one of the interesting  
15 things about that proposal was within New Jersey there  
16 seemed to be a group -- difference of opinion as to  
17 whether this was a good idea.

18           So they want ASMFC to approve a proposal that  
19 they may or not ask for in the future, which I told  
20 them that's sort of setting a precedent. Every state  
21 can go in with what they want the most and decide later

1 on if they're going to submit this as an official  
2 proposal.

3 MR. SIMMS: You've got to watch New Jersey.  
4 They're pretty tricky with them numbers.

5 MR. O'BRIEN: Tell me about it over 20 years.

6 MR. O'CONNELL: Thanks Ed. Now, moving  
7 forward --

8 MR. SIMMS: Hey, Tom, the question keeps  
9 coming up, maybe you can clear it up.

10 MR. O'CONNELL: I don't know.

11 MR. SIMMS: Cut the poundage back 6 percent,  
12 because he said that the Maryland quota was -- you got  
13 it up to 42 and a half. What did you -- we haven't  
14 seen anything, and everybody's worried about it, what's  
15 the recreational quota -- what's the recreational  
16 cutback going to be?

17 MR. O'CONNELL: Sure. You know, it -- you  
18 know, Larry brought this issue up a little while ago in  
19 the winter, and it's a fair issue. The Chesapeake --  
20 unlike the coastal quota that is fixed, the Chesapeake  
21 Bay quota for both recreational and commercial

1 fluctuates with stock size. And because the stock size  
2 has reduced, we reduced the commercial fishery by six  
3 percent.

4 So the question was asked what are we going  
5 to do, if anything, with the recreational fishery. So  
6 I asked Lynn and her staff to take a look at that.  
7 They came up with some options in the case we needed to  
8 pursue that. What we found was that the recreational  
9 fishery is falling well short of their annual  
10 allocation. So because of that, it's not necessary to  
11 reduce the fishery this year, because they're not  
12 meeting that overall allocation, whereas the commercial  
13 guys, you know, they -- and that's -- we don't  
14 necessarily always meet it, but we get very close to  
15 it. Some years it may be a little bit above; some  
16 years a little less.

17 So at this point in time, it doesn't appear  
18 that we have to examine any measures to reduce the  
19 recreational fishery this year.

20 MR. SIMMS: That had a lot of fears that  
21 people had what you was going to cut in the

1 recreational side. So that takes care of that.

2 MR. GRACIE: Richard.

3 MR. YOUNG: How do you determine what the  
4 recreational catch is, and how do you know that they're  
5 not reaching their quota?

6 MR. O'CONNELL: It's based upon the Marine  
7 Recreational Fishery statistical surveys and the  
8 Federal MRFS survey which -- I know there are a lot of  
9 questions about. That's the survey which is approved  
10 by the Atlantic States Marine Fisheries Commission to  
11 assess harvest.

12 So, you know, we come up with the overall  
13 Bay-wide quota, and then we allocate that based upon a  
14 formula that Bill described -- 42 and a half, 42 and a  
15 half and 15. And based upon the MRFS estimate and that  
16 recreational share were both falling short, that  
17 relative significance.

18 MR. YOUNG: So somebody, and I don't know  
19 anybody that's ever filled out one of those surveys.  
20 And I know a few recreational fishermen. So that's how  
21 you know.

1                   MR. O'CONNELL:    At this point in time, and  
2   hopefully that will improve with this new coastal  
3   license requirement.

4                   MR. SIMMS:    He has a question.

5                   MR. O'BRIEN:   Part of the dialogue that goes  
6   on with the advisors and a lot of other people is the  
7   fact that the technical committee, to me, loses some  
8   credibility in that they don't -- can't -- account for  
9   that winter intercept fishery and all those fish that  
10   are caught out there.  And they've even stated at the  
11   meetings and they've stated on the telephone that they  
12   don't know how many fish are really being caught.

13                   Yet the real problem is all the fish that are  
14   being caught illegally outside the three-mile limit of  
15   which nobody has any guess for.  This is sort of absurd  
16   for those of us that are so concerned about this  
17   fishery.  And it certainly does lead to a conservative  
18   approach relative to this fishery.

19                   As far as Maryland, I see that two of the  
20   more interesting things that are going to come out in  
21   the future is this year's (unintelligible) and for me,



1     psychologically, that's so important. And I've seen  
2     people in other states very concerned about our end of  
3     year. It comes up in these advisories discussions.

4             And also, you know, what is the status of  
5     this years' -- we don't know this yet, but what is  
6     going to be the status report of the spawning biomass?  
7     Now, one thing -- and then I'll get off of this. One  
8     thing, to me, that is hard to account for is the  
9     Virginia commercial catch. As these fish leave the  
10    intercept fishery, and in a matter of weeks, they're  
11    coming right up the Bay. I'm hearing horror stories  
12    about it, of which I know are exaggerated, but just  
13    what is the status of that fishery, 'cause it's all  
14    being fished. And all I hear them griping about when  
15    it comes to a lot of this stuff is "our poor little  
16    trophy fishery" and, of course, our commercial fishery.

17            So there's a lot going on underneath in ASMFC  
18    to me to where they're starting to recognize things  
19    that they haven't really put on the table relative to  
20    the status of this -- particularly the spawning stock.  
21    That's what we're talking about.

1           MR. GRACIE: Can I ask you a question, Ed?  
2     If I understand it correctly, the advisors voted for  
3     status quo, and the amendment that's being put forward  
4     --

5           MR. O'BRIEN: At the last meeting.

6           MR. GRACIE: -- would be in spite of the  
7     advisors, not with their support. If that -- well, if  
8     that's put forth.

9           MR. O'BRIEN: On this agenda of this  
10    conference call, so basically they go back to their  
11    vote for the status quo. And there wasn't that much  
12    discussion on it. They do recognize, as Tom said, it  
13    was brought out by the ASMFC lately that, you know,  
14    this is going for review to the different states  
15    relative to the addendum. So there will be plenty of  
16    time to yak about that.

17          MR. GRACIE: Right. I don't -- the  
18    decision's not made yet.

19          MR. O'BRIEN: Right.

20          MR. GRACIE: Dace.

21          MR. SIKORSKI: I'll say (unintelligible) that

1 with all the uncertainty going on with the spawning  
2 stock surveys and the numbers of striped bass coast-  
3 wide right now, any kind of increase wouldn't make any  
4 sense. And even a reallocation -- it seems that -- I  
5 know there's a lot of uncertainty in recreational  
6 numbers and catch numbers. We've been dealing with it  
7 forever, and we'll deal with it, you know, into the  
8 future.

9 But when you have a reallocation from  
10 recreational to commercial, I think it's more of a  
11 guarantee of catch, because of the value placed on our  
12 commercial catch. So when that -- whatever percentage  
13 it may be transfers to commercial, you have more of a  
14 guarantee that the commercial guy's going to go out and  
15 catch the fish, because it's the livelihood. It's the  
16 -- you know, it has value. You know, this is all kind  
17 of a guess, but you know those recreational guys won't  
18 sail when the wind blows. They don't go out fishing.  
19 Commercial guy's putting food on his table. He's going  
20 to go fishing.

21 So I feel like, you know, a change of

1 allocation of that percentage for the quota is going to  
2 -- you know, towards commercial, is going to lead to  
3 more catch.

4 MR. O'CONNELL: Let me say real quickly, is,  
5 you know, there does seem to be an equity issue along  
6 the coast. The recreational harvest has continually  
7 gone up over the year, and the coastal quota has been  
8 fixed flat. Saying that, it doesn't seem the best  
9 time. You know, there's a lot of uncertainty about  
10 reduced JI, reduced spawning striped biomass, increased  
11 natural mortality rate in the Chesapeake Bay.  
12 (Unintelligible) seen the fish. On the other hand, the  
13 spawning striped biomass is well above the target and  
14 the fishing mortality rate is well below the target.  
15 So, you know, it's a lot of uncertainty what's going on  
16 right now.

17 And just to get back to Ed, the poaching  
18 thing that you see in the agenda, there's going to be  
19 an update on developing poaching estimates by NRP at  
20 the striped bass board meeting. And I have recently  
21 spoken to Jack Troudstad (phonetic) about trying to get

1 better estimates off of the Virginia coastal intercept  
2 fishery. And if you want to talk afterwards, I can let  
3 you know what their response was.

4 MR. SIKORSKI: I want to -- I'd like to make  
5 a motion to -- for the sport fish to recommend to not  
6 increase the quota -- the commercial quota.

7 MR. GRACIE: I have a motion. Is there a  
8 second?

9 MR. COBURN: I'll second it.

10 MR. GRACIE: Discussion? Does your motion  
11 mean no increase or how about a reallocation like the  
12 tidal fishery requested?

13 MR. SIKORSKI: That's a no increase of  
14 commercial quota.

15 MR. GRACIE: No increase of commercial quota.  
16 Okay. Yes, Val.

17 MR. LYNCH: Could I suggest amending that to  
18 not change the allocation, as well?

19 MR. SIKORSKI: Well, it doesn't -- I mean  
20 that's --

21 MR. GRACIE: All right.

1           MR. SIKORSKI:  Would you like to add  
2 anything, Val, representing the coastal?

3           MR. GRACIE:  Let me just take care of some  
4 business first.  Who was the second?  Bill, would you  
5 accept that as a friendly amendment?

6           MR. GOLDSBOROUGH:  I only added to it.  I  
7 prefer -- Larry was the seconder of record.

8           MR. GRACIE:  Okay.  And you agree with that  
9 amendment?

10          MR. COBURN:  All right.

11          MR. GRACIE:  All right.  Go ahead, Val.  I'm  
12 sorry.

13          MR. LYNCH:  No.  I -- my point being that I  
14 would agree that we don't foster any increase in the  
15 harvest, but also to leave the allocation between  
16 recreational and commercial the same.

17          MR. GRACIE:  Any further discussion?

18                   (No response.)

19          MR. GRACIE:  If not, I'll call the question.  
20 All in favor of the motion, say, "Aye."

21          VOICES:  Aye.

1 MR. GRACIE: Opposed.

2 (No response.)

3 MR. GRACIE: Abstentions?

4 MR. TRAGESER: Abstain.

5 MR. GRACIE: One abstention. All the rest in  
6 favor.

7 MR. SIMMS: On behalf of the commercial group  
8 of the Tidal Fish Advisory Board, I'd like to make a  
9 motion.

10 MR. GARY: Hold on one second, Larry. Roger,  
11 you were the only abstention?

12 MR. TRAGESER: Uh-huh.

13 MR. GARY: It would appear everybody else is  
14 in favor.

15 MR. GRACIE: Didn't you guys already have a  
16 motion of record?

17 MR. SIMMS: We're going to make another one.

18 MR. GARY: So it's nine, zero, one  
19 abstention.

20 MR. GRACIE: And I'm not sure that that  
21 wording captures the motion as amended. Thank you.

1 That's good. Thank you.

2 MR. GARY: All right. So that's fair? You  
3 think I've got it?

4 MR. GRACIE: Yeah. Go ahead. Okay. Larry,  
5 you have a motion you want?

6 MR. SIMMS: To clarify our position on the  
7 (unintelligible) that's been going on for so long about  
8 recreational being -- catching more and more, and the  
9 commercial staying status quo, my motion is to increase  
10 the commercial catch by decreasing the recreational  
11 catch on the coast.

12 MR. VAN ALSTINE: I'll second that.

13 MR. GRACIE: Okay. We've got a motion and  
14 seconded.

15 MR. BROOKS: By reducing the recreational  
16 harvest?

17 MR. SIMMS: Yeah. Even it out.

18 MR. BROOKS: This is coastal, now?

19 MR. SIMMS: Coastal. It's just coastal, not  
20 Maryland. Not the Chesapeake Bay.

21 MR. GARY: Is it as simple as that, or is it



1     okay?

2                   MR. BROOKS:   Okay.   So increase the coastal  
3     commercial harvest by reducing the coastal recreational  
4     harvest.   Is that the motion you wanted?

5                   MR. SIMMS:   To the percentage that makes it -  
6     -

7                   MR. GRACIE:   Equivalent.   Yeah.

8                   MR. O'BRIEN:   And that's up and down the  
9     coast, Larry?

10                  MR. SIMMS:   Yeah.   The whole coast.

11                  MR. GOLDSBOROUGH:   Do you mean 50/50, then,  
12     Larry, when you say "equitable"?

13                  MR. SIMMS:   I don't know what it's supposed  
14     to be.   What is it now?   It's not changed none.   I'm  
15     just saying right now it's -- it isn't after the thing  
16     because the recreational harvest will be going up, up,  
17     and up.   And commercial stays status quo.   If it's 20  
18     percent, then you take 10 percent off recreational and  
19     put 10 percent on commercial.   It doesn't change  
20     whatever the allocation is supposed to be except you  
21     take 10 off and put 10 on.   It doesn't change.

1 MR. GROSS: It makes it fairer.

2 MR. VAN ALSTINE: It doesn't change the  
3 percentage.

4 MR. GRACIE: Is what you're --

5 MR. VAN ALSTINE: It doesn't change the  
6 percentage.

7 MR. SIKORSKI: Isn't it true that it doesn't  
8 change the percentage breakdown? Is that what you said  
9 before? They set a commercial quota, recreational gets  
10 a quota also, but they -- theirs is so flexible because  
11 it's met or not met.

12 MR. O'CONNELL: It's managed by fishing  
13 mortality rates. So there's a fixed quota for the  
14 commercial guys, and in the size and the creel limit.

15 MR. GRACIE: Can I suggest that --

16 MR. SIKORSKI: So the sportsman creel limit  
17 would shrink?

18 MR. GRACIE: Can I suggest that the Sport  
19 Fish Commission stay out of the discussion of the Tidal  
20 Fish Commission? Thank you.

21 MR. BROOKS: The motion is to increase the

1 coastal commercial harvest by reducing coastal  
2 recreational harvest so as to --

3 MR. SIMMS: By the percentage that's needed -  
4 -

5 MR. GARY: To provide equity?

6 MR. SIMMS: Yeah. Right. To provide equity.

7 MR. BROOKS: To provide equity. Okay. Very  
8 well put. Is that agreeable? To provide equity?

9 MR. SIMMS: And just to explain my motive a  
10 little bit clearer. We don't think that the stock --  
11 that we need to take more. That's why we're saying  
12 equalize it between the user groups instead of adding  
13 to the overall percentage.

14 MR. BROOKS: And not to increase the total  
15 allocation taken.

16 MR. GARY: I wish I could make this a little  
17 bit larger, Larry, but I'm going to read this again. A  
18 motion by Larry Simms to increase the coastal  
19 commercial harvest by reducing the coastal recreational  
20 harvest by the necessary percentage to provide equity  
21 between recreational and commercial sectors. Is that

1 right?

2 MR. SIMMS: That's right.

3 MR. BROOKS: Okay. We have a motion. John,  
4 you seconded that?

5 MR. VAN ALSTINE: Yes.

6 MR. BROOKS: Okay. Discussion?

7 (No response.)

8 MR. BROOKS: Discussion by Sports Fishery?

9 (No response.)

10 MR. BROOKS: Public comment?

11 (No response.)

12 MR. BROOKS: All in favor signify by saying,  
13 "Aye."

14 VOICES: Aye.

15 MR. BROOKS: Opposed?

16 VOICE: Nay.

17 MR. BROOKS: One opposed. Abstentions?

18 (No response.)

19 MR. BROOKS: The motion passed, nine, zero,  
20 one. Not -- nine, one, zero. Thank you, Mr. Chairman.

21 MR. GRACIE: Thank you. Bill.

1                   MR. GOLDSBOROUGH: Could you have Larry  
2 Coburn up there as the seconder instead of my on our  
3 motion.

4                   MR. GRACIE: Yes. Fix that, Marty.

5                   MR. O'CONNELL: All right. Just a couple  
6 more items. Atlantic menhaden, the subject of a lot of  
7 interest in Maryland recently, there's been a stock  
8 assessment and a peer review of the stock assessment  
9 that became available publicly last week.

10                  There is some indication that the status of  
11 the stock is not as good as it was a few years ago.  
12 And Lynn and her staff are currently digesting that  
13 information to determine whether or not Maryland or  
14 other states would want to pursue a change in the  
15 management parameters for menhaden. So there's likely  
16 to be a pretty interesting discussion.

17                  And that's really it, unless there's another  
18 item on the agenda for which you'd like me to comment  
19 upon.

20                  MR. GRACIE: No, unless you want to move up to  
21 Legislative and Regulatory Update.

1                   MR. O'CONNELL: Sure. We should have a  
2     handout that summarizes the legislation and regulation.  
3     What tab is that in?

4                   MR. GARY: Two.

5                   MR. O'CONNELL: Tab two. Let me first -- one  
6     thing that's not on the handout is many of you recall  
7     that the Department of Legislative Services analysts  
8     recommended that the fisheries services budget be cut  
9     by \$1.7 million. And if it wasn't for the strong  
10    support of the sport fishing community for which many  
11    of you came and gave public testimony to the budget  
12    subcommittees. We were very fortunate to have that  
13    strong support. And the budget committees did not --

14                  MR. SIMMS: And the commercial fisheries  
15    supported that, too.

16                  MR. O'CONNELL: Thank you, Larry. I have to  
17    apologize. You weren't there, but somebody had read  
18    your statement. I appreciate that -- from everybody --  
19    you know, we came out without any budget reduction in  
20    the fisheries service right now.

21                  There's still some statewide, across-the-

1 board cuts -- 500 pins -- for which we don't know how  
2 that will be allocated, but we've been making out very  
3 well because of the strong support from all of you.

4           Regarding legislation, I'll just highlight  
5 the ones that have passed. Senate Bill 3 was related  
6 to aquaculture fees characterizing the Department of  
7 the Environment. Those fees are going to be waived for  
8 a period of time to help make it more advantageous for  
9 folks to get involved with aquaculture. Some of those  
10 fees get into the thousands of dollars.

11           Senate Bill 29. This is the preparation of  
12 Fisheries Management Plans. It provides the Department  
13 with the authority to create fisheries management plans  
14 based upon the need of the species after consultation  
15 with both the Tidal Fish and Sport Fish Advisory  
16 Commissions. And for those species that are Maryland  
17 specific, it sets forth some requirements to address  
18 over fishing status. I really appreciate the support  
19 from the fisheries task force on that bill.

20           Senate Bill 84, Tidal Fish - Sport Fish  
21 Advisory Commission. This bill will allow the

1 Department of add three more members to both the Sport  
2 Fish Advisory Commission and then three additional  
3 members to the Tidal Fish Advisory Commission. That  
4 law goes into effect July 1<sup>st</sup>. So we're going to be  
5 working on that over the coming months. If anybody has  
6 some recommendations that you'd like us to consider,  
7 please let me know.

8 Senate Bill 422, Dorchester County softshell  
9 clam harvesting. There was an area for which hydraulic  
10 clam dredging was not allowed prior to and during the  
11 waterfowl season. This is really more of a waterfowl  
12 issue with the Wildlife Department. Because there has  
13 not been any user conflicts in that area, the  
14 Department supported the bill, and the bill passed.

15 Senate Bill 987, the Conservation Law  
16 Enforcement Act. That passed. And with tremendous  
17 support and effort by the Maryland Legislative  
18 Sportsmen's Foundation and Bill Miles and many of you  
19 who served on that body, as well as, you know, worked  
20 hard to get that bill passed. It's going to provide an  
21 instrumental tool to try to find some new funding



1 avenues to enhance the Natural Resources Police effort.

2 House Bill 98, Tidal Fish Licenses --

3 Transfer and Suspension. This addresses one of the  
4 loopholes through which an individual who has their  
5 tidal fish license suspended can no longer go back and  
6 fish on the water if they get a license transferred to  
7 them. So when this individual has their license  
8 suspended, the suspension is to the individual. So  
9 they won't be able to work on the water during that  
10 suspension period.

11 House Bill 218, Dredge Devices, is the devil  
12 divers. That passed.

13 House Bill 689, Exception to Trout Stamp  
14 Requirement for POW's and Disabled Veterans -- a  
15 hundred percent disabled veterans. These individuals  
16 are already exempt from the sport fishing license fees.  
17 The trout stamp was an additional fee that they had to  
18 charge. That is now exempt, as well. So they can, you  
19 know, both have the fishing license and the trout  
20 stamp.

21 Moving on. House Bill 1345, the

1     Recreational Fishing Licenses. I'm happy to say that  
2     that bill passed. I appreciate all the support, again.  
3     Sport Fish Advisory Commission's Task Force on  
4     Fisheries Management, both the Fishery Advisory  
5     Committee and the people that came down and testified.  
6     This bill is going to allow us to meet the compliance  
7     departments of the National Fishery Service, and to  
8     keep our anglers from spending an additional 20 to \$30  
9     fee with the Federal Government of which none would  
10    come back.

11               There was only one amendment through that  
12    process, and it came in late by Delegate Sossi. It  
13    increased the short-term, seven-day, non-resident  
14    license for tidal waters. You know, what we heard from  
15    the coastal community, they wanted to keep that fee  
16    below \$10. The bill proposed nine dollars. And it was  
17    amended to increase it to \$12. So it did increase by  
18    three dollars. It was late in the process to try to  
19    fight that. It would have caused difficulty in getting  
20    the bill through. So unfortunately, it's going to be  
21    \$12 instead of nine dollars.

1           And so that's the legislative updates. If  
2   there's any bills that you'd like me to comment on that  
3   I didn't, I'd be happy to.

4           MR. GRACIE: Yeah, Bill.

5           MR. O'BRIEN: Tom, I don't believe you  
6   mentioned that discharge bill that the attorney general  
7   put in.

8           MR. O'CONNELL: Yeah. I only mentioned the  
9   bills that passed. But, Ed, I know you worked hard on  
10   that bill for him. The Chairs are okay for Ed to say a  
11   word on that?

12          MR. GRACIE: Yeah. Sure.

13          MR. O'BRIEN: Well, I appreciate the support  
14   that we got from a lot of people -- from the watermen.  
15   This was a very serious bill. A lot of our boats are -  
16   - would have to be torn apart to put in these areas  
17   that would handle the pump out. And the pump-out  
18   stations at a lot of these marinas aren't working too  
19   well. And then they'd go into some of the local  
20   sewerage distribution, which goes right back into the  
21   Bay. So it was very -- it was very ill-conceived. And

1 the stakeholders weren't consulted before the fact.

2 Now, a lot of work went into stopping this  
3 one. And I think the commercial guys would have been  
4 just as -- almost as effected by it as the people  
5 carrying passengers. We would have had to rip out our  
6 Type II systems and go to a big holding tank. And  
7 believe me -- I mean, for small boats, it would have  
8 been a very serious thing.

9 I appreciate the support, again, from Bill  
10 Goldsborough and a lot of people who got their  
11 assistance on that. I don't think it's going to come  
12 up again. I hope.

13 MR. GRACIE: Thanks, Ed.

14 MR. O'CONNELL: All right. On regulations,  
15 you know, a lot of these regulations are just kind of  
16 rolling forward each month. So I just want to  
17 highlight a couple of them.

18 Since we have last met, I don't know of any  
19 new regulations that have been adopted. Under proposed  
20 regulations, the one that may tend to move is this TFL  
21 crab license upgrade. You know, as we've gone through

1     this LCC Buyback Program, that was regulations to  
2     restrict those individuals who don't have recent  
3     harvest history. We were concerned that some of these  
4     people that got the male only, or had their license  
5     frozen would try to upgrade their license to a TFL.

6             A limited crab-picker license can upgrade if  
7     they have two additional authorizations. That would  
8     have gone against our objective to reduce  
9     (unintelligible) in the crab fishery. So we put forth  
10    a regulatory idea which are basically -- you know, a  
11    lot of the those individuals that have already started  
12    the process to get additional authorizations can  
13    continue to go forward, but to keep it from new  
14    individuals beginning that process.

15            We had a public scoping meeting a couple of  
16    weeks ago, and I think there were just a couple of  
17    individuals that showed up. I know we talked to  
18    several of the industry members as we were developing  
19    this regulatory idea. We got, you know, positive  
20    feedback that this makes sense. So that's kind of  
21    where we are.

1                   The shark --

2                   MR. VAN ALSTINE: May I make a comment here  
3   at this point?

4                   MR. GRACIE: Yeah.

5                   MR. VAN ALSTINE: Question -- if we've got an  
6   LCC license, which is allowed to already catch male and  
7   female, is there any reason why we can't allow that  
8   license holder to upgrade his license if he --

9                   MR. O'CONNELL: No.

10                  MR. VAN ALSTINE: Okay. So that ability is  
11   not being taken from that particular LCC license?

12                  MR. O'CONNELL: Correct. The shark item, you  
13   know, last year we went through some new shark  
14   regulations. This is just kind of a housecleaning  
15   issue to -- you know, one set of regulations said one  
16   thing that was overlooked. So it's just a  
17   housecleaning.

18                  Upcoming regulations, you know, the big one  
19   we're working on now is the oyster one, to implement  
20   the sanctuaries, the public oyster sanctuaries and the  
21   aquaculture. It's a large package. There's still some

1 discussion on a few remaining issues. At this point in  
2 time, it's looking like May 27<sup>th</sup> will be the regulatory  
3 submittal date. And we'll talk a little bit more later  
4 in that meeting.

5 MR. GOLDSBOROUGH: What was that date, Tom?

6 MR. O'CONNELL: May 27<sup>th</sup>. Public notices,  
7 you know, we issued a public notice for the commercial  
8 summer flounder season. This is nothing that's changed  
9 from last year. It's just we do as the public notice  
10 authority, and if we've done it for two consecutive  
11 years, we're probably looking at, you know, doing a  
12 formal regulation so we don't have to do the public  
13 notice every year.

14 MR. GRACIE: Thank you. Any other questions  
15 on Tom's report?

16 (No response.)

17 MR. GRACIE: Is Don Cosden here?

18 MR. COSDEN: Marty, do you have that power  
19 point?

20 MR. GARY: I do. I've got it.

21 MR. COSDEN: Before I start tonight, I'd just

1     like to send my kudos to Lt. Johnson and her comrades  
2     for a job well done. My hearty thanks.

3             LT. JOHNSON: Thank you.

4             MR. COSDEN: A lot of good numbers. And  
5     every one of those numbers, I'm sure, spread around  
6     into the groups. All it takes is a few busts at two  
7     o'clock at night to get the word out and maybe change  
8     some behavior.

9             I'm going to start right in with this power  
10    point chart. Chairman Gracie asked that we discuss  
11    this Jennings Randolph Hydroelectric facility that's  
12    been proposed. And so, briefly, we were going to have  
13    Sean Seaman, from Power Point (unintelligible) to  
14    present this, but he couldn't make it.

15            So, once again, this power point -- I'll go  
16    through it pretty quick. And you guys can take an  
17    hour, but I think we've got the PDF now. You can look  
18    it over, and at our next meeting, if you have  
19    questions, we can probably get Sean to show up.

20            MR. GARY: It's at Tab 15.

21            MR. GRACIE: Thank you, Marty.



1           MR. COSDEN: Okay. Well, just real quickly  
2 here you can see the lake back here to my left and the  
3 current discharge is way down there at the bottom of  
4 the hill in the current lake. And this proposal would  
5 follow water off here on the Maryland shore and run it  
6 down to this penstock where they would generate  
7 electricity. And it would come out down there where  
8 that little green box is instead. Two turbines, fairly  
9 small power plant.

10           Let's go to the next slide, Marty.

11           Currently at -- I don't want to spend too  
12 much time on this, but if you look in your notes, you  
13 get an idea of depth. What the actual uses of the  
14 reservoir -- this is what it was authorized for: water  
15 supply, flood control, water quality, and recreation.

16           This applicant actually passed -- or started  
17 to put together a proposal, and the studies that FERC  
18 has approved towards this, as you can see right now,  
19 they would look at water quality and how this might  
20 impact water quality, how it might impinge fish and  
21 fish larvae on any intake screens, look at the rare and

1 threatened species that might be impacted, wetland  
2 mapping, and the hydraulic model, which looked at the  
3 potential to cause streambed damage and erosion.

4           They came in with several draft reports that  
5 were well off the mark. And the company's been asked  
6 to go back and look at these again, specifically the  
7 hydraulic modeling. They, I guess looked at pictures  
8 and saw riprap on the shore and assumed the entire  
9 bottom was riprapped. And sort of wrote a proposal on  
10 that. And then just a draft impact.

11           And the fish entrapment was done on the, you  
12 know, dam number 4, which is an entirely different  
13 system, run of the river type of (unintelligible) as  
14 opposed to this reservoir.

15           So, go ahead and -- next, Marty.

16           There's no specific studies right now looking  
17 at actual impacts to trapping fish downstream, mainly  
18 because what they're proposing is not going to change  
19 water temperatures. It's not going to change the  
20 actual way that the water has been released. They plan  
21 to let the Corp run release schedule according to the

1 way they always have and just generate when the Corp --  
2 as the Corp makes the call on how they're going to  
3 release water from this reservoir. They claim that  
4 there's no -- going to be no changes in flows and  
5 velocities.

6 There is going to be one study that's going  
7 to look at the type of habitat -- or usable habitat in  
8 stream according to the amount of flow that's going  
9 down the river similar to what we have on the Savage  
10 River to give us an idea of how much habitat we gained  
11 in various flow regimes. That was actually not so much  
12 because we expect any changes according to this  
13 project.

14 Go to the next slide.

15 Okay. Before we look at this, I asked about  
16 -- I just asked this morning if there was any  
17 discussion of the gas saturation problem there. And  
18 actually, Sean wasn't in the office, but he came back  
19 with an answer later this afternoon that abatement  
20 efforts for nitrogen supersaturation were currently  
21 underway through a Section 11-35 cooperative agreement.

1 I'm not familiar with what this is, and I  
2 wasn't aware of the --

3 MR. GRACIE: That's the partnership program  
4 that Bachman started.

5 MR. COSDEN: Okay.

6 MR. GRACIE: If they've reactivated it, it's  
7 news to me. It's underway, because it hasn't been  
8 discontinued. It's about 14 years old. They did a  
9 feasibility study and didn't go beyond that.

10 MR. COSDEN: I plan on asking Sean, you know,  
11 if anything's new. And, if so, I'll come back and do a  
12 report at our next meeting.

13 MR. GRACIE: The 11-35 Partnership Program is  
14 where the Feds spend -- put up 75 percent of the money,  
15 and they have a partner -- the State of Maryland signed  
16 on as a partner originally way back when -- responsible  
17 for 25 percent, and only half of that has to be cash.

18 So we had proposed for the in-kind portion of  
19 our match to that, that they were going to do in-stream  
20 studies of the impacts of nitrogen on macro-  
21 (unintelligible) in fish. And their study started, but

1 I don't think they've been continued. You may know.

2 MR. COSDEN: Well, we'll try and found out if  
3 there's any new news on that or not and where it  
4 stands.

5 MR. GRACIE: I have the results of that  
6 feasibility study that I borrowed from Bob Lunsford a  
7 long time ago. I probably ought to get that in your  
8 hands and make sure you have it, if you don't.

9 MR. COSDEN: Okay. We may have one -- it's  
10 one that, basically, pointed toward a weir as the most  
11 --

12 MR. GRACIE: It had three alternatives. Two  
13 of them are feasible, and the weir was the least  
14 expensive.

15 MR. COSDEN: Well, if you've got one, it  
16 would be good -- I can't put my hands on it right now,  
17 but we can get this in the library --

18 MR. GRACIE: I'll try to dig it up, yeah.

19 MR. COSDEN: -- as a PDF, and it will be  
20 available online through our library that anyone can  
21 just look at it.

1           MR. GRACIE: My -- the reason -- you may want  
2 to tell people this, I'll certainly say something about  
3 it. I suggested that if they're going to be given this  
4 license, we ought to recommend that they participate in  
5 the fix of the nitrogen supersaturation problem as  
6 mitigation for the right to make money off our water  
7 and our dam.

8           MR. SMITH: A bit of leverage, then.

9           MR. GRACIE: Yeah. So that's -- I mean,  
10 that's still something that ought to be pursued,  
11 because I'd be interested in what the Corp thinks the  
12 current status of the 11-35 Partnership Program is,  
13 because it hasn't had any funding since we went to  
14 Iraq. I don't think that's changed.

15          MR. COSDEN: So you see the time line. The  
16 next bullet here is June 9. The applicant's supposed  
17 to come back with a 401 water quality certification  
18 from Maryland and West Virginia. I don't know if  
19 that's -- that may have been pushed back, because of  
20 some of the draft reports requesting that they go back  
21 and review some of their draft reports.

1                   MR. COBURN:  Who's benefitting from this?  
2                   West Virginia, Maryland or Virginia or who?

3                   MR. GRACIE:  The company that supplies the  
4                   power.

5                   MR. COSDEN:  The company that --

6                   MR. COBURN:  Yeah, but who are they selling  
7                   it to?  Are we buying it?

8                   MR. GRACIE:  Selling it on the grid.

9                   MR. COSDEN:  Well, on the grid, and it's, you  
10                  know, clean energy.  I don't know, cost-wise, if there  
11                  would be any benefit to any local users or not.

12                  MR. SMITH:  There would be absolutely no  
13                  change in the discharge?

14                  MR. COSDEN:  That's what they claim that  
15                  there's no change in the Corp's operations as far as  
16                  their discharge.

17                  MR. GRACIE:  My question would be, looking at  
18                  this first slide you had here showing a new point of  
19                  discharge whether or not that could actually effect the  
20                  supersaturation problem --

21                  MR. COSDEN:  Well --

1           MR. GRACIE:  -- in either direction.  Because  
2   the supersaturation has to do with the depth of water  
3   that the dropping water goes into.  So if they're  
4   discharging part of the water down here and part of  
5   it's coming in here, they may reduce the depth.

6           MR. COSDEN:  They may reduce the depth, but  
7   that water will be taken off and run over a longer  
8   period of time, which may give time for the gas to --

9           MR. GRACIE:  So the amount of water that's  
10  going out of the -- through the penstock may have less  
11  supersaturation?

12          MR. COSDEN:  May have less gas.

13          MR. GRACIE:  That's a possibility.

14          MR. COSDEN:  But I think they can only use  
15  about 900 CFS.  So the real problem starts at --

16          MR. GRACIE:  Our problems are at 3,000 CFS.  
17  So it's not going to effect it.

18          MR. COSDEN:  Right.  Three, four, or five  
19  thousand.  So this really doesn't have the potential,  
20  at least, to fix that problem.

21          MR. GRACIE:  Well, the reduction in depth may



1 be another positive factor on that, though.

2 MR. COSDEN: It could be. And --

3 MR. GRACIE: But the hydraulic study would  
4 show whether or not that's true.

5 MR. COSDEN: The West Virginia biologist who  
6 was commenting on this indicated he was concerned that  
7 the stilling basin would be deep water at low flows.  
8 And they're looking at that. They're looking at  
9 elevation and if that might possibly happen. We  
10 haven't heard back from them yet.

11 MR. GRACIE: Same effect. Reduce the depths  
12 to nothing at low flows.

13 MR. COSDEN: So that's where we stand right  
14 now. And when we get more information -- when we get  
15 to this next step, especially --

16 MR. GRACIE: What's the name of the fellow in  
17 the power point? Sean what?

18 MR. COSDEN: Shawn Seaman.

19 MR. GRACIE: Spell it for me, would you?

20 MR. COSDEN: S-H-A-W --

21 MR. GARY: S-E-A --

1 MR. GRACIE: No. His last name.

2 MR. COSDEN: S-E-A-M-A-N.

3 MR. GRACIE: M-A-N. Okay. Thank you.

4 MR. COSDEN: He took Rick McLean's place.

5 So let's move on. Jim also wanted a little  
6 update about the water -- request for water withdrawal  
7 at the Savage River by the town of Westernport, which  
8 is being used for municipal purposes. And this is  
9 something that MDE has had for several years. And  
10 we're just starting to move on it.

11 We've had some handouts that you guys got  
12 which were basically a letter that we put together  
13 along with the application and a study that indicated  
14 the need for cold water and the precariousness of  
15 keeping cold water in the system at minimum flows  
16 during a typical year.

17 MR. GARY: Tabs six, seven, and eight.

18 MR. COSDEN: Thanks, Marty.

19 Basically, what that study says is that in  
20 some years if we try to keep minimum flow in the river,  
21 we will provide water that the town now has a permit to

1     withdraw. We sometimes run out of cold water at the  
2     bottom of the reservoir, or close to it, to keep the  
3     trout fishery going.

4             So it is important for us not to just approve  
5     a permit for an extra cold water when all this water  
6     will be drawn off the bottom of the reservoir. And so  
7     there is no option for them to draw the warmer water  
8     off the top. So it's all coming out of that colder  
9     pool.

10            MR. GRACIE: I intend to appoint a work  
11     group. I got an email from Neil Jacobs on this issue.  
12     I don't know if he copied you or not.

13            MR. COSDEN: No. I didn't see it.

14            MR. GRACIE: He was apologizing for not being  
15     able to be here and found out that his proxy couldn't  
16     be here either. But he said if it came up, he wanted  
17     us to know.

18            Essentially, what he's saying is that there's  
19     going to be strong opposition to the use of, what he  
20     puts it, Class III water for commercial value, because  
21     our understanding of this is that the main issue is

1     it's going to decrease the cost of water treatment for  
2     the West Vaco plant -- not West Vaco. It's New Page  
3     now.

4                   MR. COSDEN: New Page. Yeah.

5                   MR. GRACIE: Because they require less water  
6     treatment when they get more water from the Savage  
7     rather than from the North Branch of the Potomac,  
8     'cause it -- the water quality's better. So he's  
9     predicting there's going to be strong opposition in  
10    Western Maryland to this.

11                  I'm going to appoint a work group, rather  
12    than take the whole Commission's time, of people  
13    interested in this fresh-water issue. And we'll be in  
14    touch with you, because I guess I'd like to get someone  
15    to sit in on the meeting.

16                  MR. COSDEN: Well, I'd like to summarize it  
17    real quick here.

18                  MR. GRACIE: I got your letter, by the way.

19                  MR. COSDEN: We're in the process of drafting  
20    a letter back to the applicant -- the town -- with our  
21    comments, comments from the In-state Commissioner of

1 the Potomac River Basin about what we need and what  
2 they would have to meet -- the hoops that they would  
3 have to jump through if they were to give them extra  
4 water. And at that point, MDE indicated that they  
5 would be willing to come to our next North Branch  
6 meeting and discuss it. And, you know, if it's -- at  
7 that point, especially discuss what the trigger might  
8 be that would cut the usage back in the experience  
9 where we need the cold water.

10 MR. GRACIE: Yeah. And I don't know what  
11 that's likely to look like or how comfortable we're  
12 likely to be with that, but I -- if we -- if we're  
13 persuaded by Neil Jacob's position, the Commission  
14 would probably be asked to take a policy position  
15 objecting to this kind of a use of cold water in that  
16 setting.

17 So it would be a stronger position than the  
18 one you can take.

19 MR. COSDEN: Okay. Well, you know, we asked  
20 for the minimum flow, and not to jeopardize the minimum  
21 flow and a buffer in case they have to --

1                   MR. GRACIE: I liked your letter. I thought  
2 it was --

3                   MR. COSDEN: -- discharge more water, yada,  
4 yada, yada.

5                   MR. GRACIE: I thought you did a good job on  
6 that.

7                   MR. COSDEN: Well, thank you.

8                   MR. GRACIE: Who drafted that?

9                   MR. COSDEN: I drafted that letter.

10                  MR. GRACIE: Good job. Thank you.

11                  MR. COSDEN: Thanks. In that regard, we  
12 should talk about the -- later, the spreadsheet I put  
13 together to look at the coming season for North Branch  
14 White Water releases and cold water and the whole water  
15 budget for this year. And that's coming up in June.  
16 And we may want to have a conference call. We can do a  
17 video conference, if you want, where we have DNR --

18                  MR. GRACIE: I don't know if the Commission -  
19 - I mean, we have a North Branch Advisory Committee --

20                  MR. COSDEN: Right.

21                  MR. GRACIE: -- which represents all the

1 stakeholders. I think that --

2 MR. COSDEN: Yeah. That's what I --

3 MR. GRACIE: -- would be the appropriate way  
4 to do it. Is that what you meant?

5 MR. COSDEN: I am bringing that up right now.  
6 Yeah. But that would happen in early June. And I'll  
7 just leave the details of that till later.

8 Just to finish up, we'll say we had our five  
9 open houses. We didn't have a lot of -- I think maybe  
10 we had 15 people show up across the State. But we had  
11 good comments from those 15 people.

12 MR. GRACIE: It's good to have a quiet year,  
13 isn't it?

14 MR. COSDEN: Well, it is. I have a feeling  
15 that some of these people will show up later and say,  
16 "What did you do?" But we tried our best.

17 But all this information is online. The  
18 draft proposals are now on our web page along with a  
19 comment sheet that goes into the database. And  
20 possibly by the end of the week, the post-its from our  
21 open house will be on line, which includes a lot of

1 other information on tidal bass, the Savage River, and  
2 a number of other topics. I'll let it go right there  
3 unless there's any questions.

4 MR. GRACIE: Thank you.

5 MR. COSDEN: Okay.

6 MR. GRACIE: Let's see if I can figure out  
7 where we are. Lynn Fegley's up. Is she here? I don't  
8 see her.

9 MS. FEGLEY: Good evening, everybody. I'm on  
10 tap for Estuarine and Marine Update. And I'll go  
11 through these things that you all may be interested in  
12 before I get to the crab results.

13 The first one is last meeting we talked about  
14 the work that Environmental Defense Fund is doing with  
15 catch shares. And I wanted to just update you that  
16 there was -- and they're hosting these listening  
17 session around the Bay area to talk about this with  
18 watermen. And we had one -- we had one -- they had one  
19 Wednesday in Dorchester County. About 50 people --  
20 between 50 and 60 people showed up for that. And then  
21 there was one Thursday down on Smith Island.



1           There will be one -- these are upcoming  
2   dates. And again, the EDF -- the Environmental Defense  
3   Fund will have more information. There'll be one in  
4   the Baltimore area tentatively scheduled for May 12<sup>th</sup>.  
5   There'll be one in Queen Anne's County, it'll likely be  
6   Grasonville, on May 13<sup>th</sup>. And then there will be one  
7   down in Colonial Beach at the Potomac River Fisheries  
8   Commission Building on May 24<sup>th</sup>.

9           And also I wanted to give everybody a heads  
10   up about the tidal fish license that you will be in the  
11   next four to six weeks -- probably more like four  
12   weeks, you're going to be getting a survey from the  
13   Environmental Defense Fund. You're going to get a  
14   survey in the mail. It will not be from us. It will  
15   be from the Environmental Defense Fund. And they're  
16   hoping to get a large response to this survey, because  
17   it's going to start to help them do some economic  
18   analysis of the blue crab fishery. So just heads up  
19   for that. And you can let people know, if they're  
20   asking about this thing they got in the mail, it's  
21   something that EDF is --

1 MR. GRACIE: May we ask questions as you go?

2 MS. FEGLEY: Sure.

3 MR. GRACIE: On the catch shares discussion,  
4 is that only going to apply to commercial? Are you  
5 going to have catch shares for commercial and no catch  
6 shares for recreational?

7 MS. FEGLEY: Well, I mean, by design, if  
8 you're going to have a catch share, a catch share  
9 implies a quota. And generally, that would mean that  
10 there would be some involvement on the recreational  
11 side. And because -- I mean, to tell you the truth,  
12 Jim, right now we're in the process of really  
13 evaluating how this thing is going to work. I don't  
14 think we're in any age and stage to start addressing  
15 how that would work. We're just at the point where  
16 we're trying to evaluate and educate both ourselves  
17 and, at this point, the commercial sector as to how  
18 these things will work.

19 But it's a good question.

20 MR. GRACIE: But these hearings are just  
21 designed for discussions with commercial --

1 MS. FEGLEY: Yeah. They're not hearings.  
2 They are listening sessions. And I think that they're  
3 really right now designed for the industry. But that's  
4 not to say that recreational people wouldn't be -- I  
5 mean -

6 MR. GRACIE: Got you. Richard, you had a  
7 question?

8 MR. YOUNG: Yeah. Lynn, you said that the  
9 meeting in Baltimore with County in the Baltimore area  
10 is going to be May th 12<sup>th</sup>?

11 MS. FEGLEY: That's what I understand.

12 MR. YOUNG: And you don't have a location?

13 MS. FEGLEY: No. And that's a tentative date  
14 that's -- so I would say -- and there will be some  
15 information coming around about that. I don't have a  
16 location yet.

17 MR. YOUNG: Okay. I'm wondering also -- my  
18 next question is how are they going to inform people  
19 when this meeting is and where it is?

20 MR. GRACIE: Less than three weeks away. It  
21 sounds like, and we don't --

1 MS. FEGLEY: Right.

2 MR. YOUNG: I heard all about this -- the  
3 meeting in Southern Maryland that I would have gone to  
4 had I known about it.

5 MS. FEGLEY: I know. I know.

6 MR. YOUNG: I found out about it the day  
7 after the meeting.

8 MS. FEGLEY: Right. You know, and it's  
9 certainly -- and with the Dorchester County meeting, we  
10 had some issues, too. We actually wound up contacting  
11 some legislators to let them know what was going on.

12 I think if we can get the information from  
13 EDF, we will make sure that the Commissioners get the  
14 information. And we'll also put it on our website.  
15 We'll put it on our calendar on our website as soon as  
16 we know.

17 MR. YOUNG: The licensees need to know about  
18 it, not the Commissioners --

19 MS. FEGLEY: Right.

20 MR. YOUNG: -- and not the legislators.

21 MS. FEGLEY: Well, why -- well --

1 MR. GROSS: Do a mailing.

2 MS. FEGLEY: Well, I mean -- we got -- we  
3 can't -- is that -- in this -- we could use the text  
4 message service that we have. We just can't do a  
5 mailing that fast. We're just not going to have enough  
6 time. We don't have staff to --

7 MR. GROSS: You need to get -- because I  
8 can't believe in Dorchester County 50 people showing  
9 up. I just don't --

10 MS. FEGLEY: How about the text message  
11 service?

12 MR. VAN ALSTINE: Not everybody is set up for  
13 it.

14 MS. FEGLEY: How about the VHF?

15 MR. GROSS: The VHF?

16 MR. SIMMS: Well, you know, get something out  
17 to people. I know you can't --

18 MR. GROSS: How about a public notice in the  
19 --

20 MS. FEGLEY: We could do a public notice.

21 MR. GROSS: You're going to have to do

1 something, because --

2 MS. FEGLEY: We could definitely do a public  
3 notice. That's easy.

4 MR. VAN ALSTINE: That one was just out there  
5 and we didn't know about it until the day after --

6 MS. FEGLEY: I know. I understand.

7 MR. VAN ALSTINE: -- and we're the ones in  
8 the know.

9 MS. FEGLEY: Well, and that's part of the  
10 reason why I'm telling you know. That's part of the  
11 reason why I'm telling you to keep -- you know, we'll -  
12 -

13 MR. GRACIE: Doesn't your contract require  
14 some kind of public notification of them -- from them?

15 MR. YOUNG: Yeah. We're two weeks away, and  
16 we don't know now when or where.

17 MR. GRACIE: We're less than three weeks from  
18 this May 12<sup>th</sup> meeting right now.

19 MR. SIMMS: There were people at that meeting  
20 in Dorchester that found out just hours before. It was  
21 primarily word of mouth. It was not very well --

1 MS. FEGLEY: Right. And you know, we had  
2 this conversation just this morning that the  
3 Environmental Defense Fund -- it's not going well  
4 getting the word out. So we will endeavor --

5 MR. GROSS: Fire them.

6 MR. YOUNG: Fire them.

7 MR. GROSS: Fire them.

8 MS. FEGLEY: Why don't I get started to make  
9 it better. You know what we'll do -- I'll tell you  
10 what, we'll get a public notice -- as soon as we have  
11 the details, we'll get a public notice out. We'll put  
12 it on the text message service. We have several  
13 hundred watermen signed up for the text message  
14 service. We'll put it on our website, and we'll also  
15 put it -- give it the Commissioners and task you with  
16 getting it out to your people as well the best you can.  
17 So we will do our very best to broadcast the word as  
18 soon as we have the details.

19 MR. GRACIE: Tom had a comment, and then  
20 Dave.

21 MR. O'CONNELL: Just in regards to the

1 economics survey that's going to be sent out by EDF. I  
2 just want to let you know I'm understanding that EDF  
3 has been talking to Larry and give you little bit, and  
4 may be forming a little bit larger group of  
5 individuals, both watermen and, like Doug Lipton, the  
6 economist, you know, to try to guide that survey. So I  
7 just want to let you know that two or three members  
8 involved in an effort to shape up that survey.

9 MR. GRACIE: Dave.

10 MR. SIMMS: I got to agree with what they're  
11 saying over there. They are very slow in telling you  
12 when the meeting's going to be -- a last-minute type of  
13 thing. And they need to get up to speed on that.

14 MR. O'CONNELL: We made it clear to them.

15 MS. FEGLEY: We're working on it.

16 MR. O'CONNELL: We heard that message loud  
17 and clear from the industry. So --

18 MR. GRACIE: Okay. Dave Sikorski.

19 MR. SIKORSKI: Is this strictly blue crab  
20 fishery, what we're talking about here?

21 MR. O'CONNELL: Yes.



1                   MR. SIKORSKI: Or are there other things  
2 discussed also?

3                   MS. FEGLEY: The -- certainly, this started  
4 with blue crab, but I think that it's really, in terms  
5 of the evaluation, I think, you know, it's worth  
6 discussing our commercial fisheries, in general. But  
7 the intent is to really to look at the potential for  
8 the blue crabs.

9                   MR. GRACIE: I think you can move on now.  
10 Sorry.

11                  MS. FEGLEY: Well. Okay. Now, moving on to  
12 -- I wanted to let everyone know that the ghost pot  
13 removal project has completed. There were a total of  
14 352 people -- that's 233 captains and a hundred and  
15 nineteen crewmen that participated. And we -- they --  
16 that's the royal "we" -- they retrieved a little bit  
17 more than 8,000 pieces of gear in various states of  
18 repair -- everything from a whole pot to a --

19                  MR. SIMMS: Disrepair.

20                  MS. FEGLEY: Pardon me?

21                  MR. SIMMS: Disrepair.

1 MS. FEGLEY: Disrepair, as the case may be.  
2 I got it. I heard it last time.

3 So that's completed, and that budget was  
4 mostly expended. So whether or not we do that next  
5 year, I -- we don't have the money for it right now.  
6 And we'll have to step our way through and see. If we  
7 have money left over from other projects, we could do  
8 it again.

9 Bar rehab has also completed, and this is a -  
10 -

11 MR. SIMMS: Hey, Lynn, can you get back to  
12 the pot retrieval a minute. I don't know if you had  
13 any figures on it or not, but what we saw in the pot  
14 retrieval is very, very little bit of retaining of crab  
15 or fish or anything else.

16 MS. FEGLEY: That's what I heard. And I have  
17 not -- Verser is working on the data analysis for this,  
18 and I have not seen -- and, frankly, I haven't asked  
19 about that, because I know they're working on it. But  
20 I did hear that, that there wasn't a lot of --

21 MR. SIMMS: I managed all, and I went to all

1 the different places, and most of the time the pots  
2 were buried that deep in the mud. So the funnels were  
3 covered up so nothing goes in anymore.

4 MS. FEGLEY: Which would imply that those  
5 pots were there for a while.

6 MR. SIMMS: Yeah. Well --

7 MR. GROSS: No. That don't --

8 MR. SIMMS: They only got to be in there a  
9 week without a fisherman, and they're buried in the  
10 mud.

11 MS. FEGLEY: They get buried that -- in a  
12 week?

13 MR. SIMMS: Yeah. They get buried --

14 MR. GROSS: One northeaster, that's it.  
15 They're buried.

16 MS. FEGLEY: That's good.

17 MR. SIMMS: So I'd say the myth about ghost  
18 pots catching -- continue to catch, we didn't see that  
19 in none of them. We -- once in a while you'd see a  
20 toad fish in there in a new pot. But very, very, very  
21 few crabs. It would have to be a pot that just was set

1 in the fall, but --

2 MR. GROSS: Your sanctuary --

3 MR. SIMMS: We didn't hardly see anything in  
4 the pots at all.

5 MR. GROSS: They were a sanctuary from  
6 menhaden, because the skates can't get to them.

7 MS. FEGLEY: Interesting.

8 MR. SIMMS: So every --

9 MR. GRACIE: So Verser is going to give you a  
10 report on that?

11 MS. FEGLEY: Yes. Yes.

12 MR. GRACIE: Okay.

13 MR. VAN ALSTINE: Lynn, with that report, can  
14 you on to Verser that -- the concerns I had about the -  
15 -

16 MS. FEGLEY: About the wire size?

17 MR. VAN ALSTINE: -- the wire size in the --

18 MS. FEGLEY: Yeah. I did. And what -- you  
19 know, we'll see what they come up with. Yeah. They've  
20 got that.

21 Okay. In the bar rehab was -- there were 264

1 boats. So that's 264 captains, and then an additional  
2 number of crewmen who worked on the bar rehab. So  
3 that's all I have for that.

4 I wanted to go over -- I'm sure right now  
5 everyone's heard the crab dredge survey results. Does  
6 everybody have the handouts of those?

7 MR. SIMMS: What number is that survey.

8 MR. GRACIE: We don't know.

9 MR. GARY: Tab 10.

10 MS. FEGLEY: Marty, I think, has them on a --  
11 Marty can you put them on the screen to help everybody  
12 out a little?

13 MR. GARY: It's Tab 10.

14 MR. GRACIE: Yeah. We have it in our hands.

15 MS. FEGLEY: Okay. So the numbers were, as  
16 you've all heard, quite striking this year. They were  
17 up significantly. The thing that we were really  
18 pleased to see last year, we had a big increase in the  
19 number of adults, which we expected since we cut the  
20 harvest of adults back so substantially. But what we  
21 weren't necessarily sure was going to happen was if

1     that increased abundance of adults was going to succeed  
2     in producing a commensurate increase in juveniles.  
3     More crabs does not automatically, necessarily mean  
4     more young. But we were very pleased to see that we  
5     got more little crabs. In fact, we got a lot more  
6     little crabs.

7             So as a total, we had 658 million crabs --  
8     give or take, there's an error estimate around that --  
9     in 2010, which is well above the survey average and  
10    getting back in to those levels that we saw in the mid-  
11    to early '90's.

12            So if you go forward, Marty.

13            This is the graph you are all familiar with  
14    now. This is just the adults. So this is male and  
15    female crabs of spawning age. In 2008 the Chesapeake  
16    Bay stock assessment did an analysis that showed that  
17    if you can get your adult abundance above 200 million,  
18    you increase the odds significantly that you're going  
19    to have healthy recruitment. It was a pretty  
20    rudimentary analysis, and the committee was very clear  
21    at that point that they wanted to set that target at

1 200 million so the states had something to aim for, but  
2 they also wanted to spend more time with that analysis.  
3 There is a stock assessment for blue crabs now  
4 underway.

5           So we are now in our second year above that  
6 target, which is great. And it's also worth noting  
7 that the increase in the adults was predominantly an  
8 increase in females. There was an increase in males,  
9 but the females increased more than the males. And  
10 everybody should be reminded that those females -- that  
11 component of the population resides in Virginia. They  
12 will not be available for Maryland harvest, because  
13 they're down there, and they're not coming back.

14           So -- but the good news is we got this --  
15 this is great. This is just wonderful news.

16           So the next one, Marty.

17           And this is what happened with the juveniles.  
18 This is the increase that we saw. We went up to 343 --  
19 we doubled our juvenile abundance. And this is  
20 excellent news. And you can see that back before these  
21 early '90's, we still had -- we had higher levels. And

1 historically, we would have had, sort of, this high  
2 level of recruitment in this variation. So it's going  
3 to be interesting to see what happens in years to come.  
4 But the bottom line is we do have some crabs this year.

5 Which bring us back around to where we're  
6 going to go with the 2010 harvest regulations. And we  
7 have said that there is -- we would -- well, let me  
8 just start by saying that this Stock Assessment  
9 Committee -- the Chesapeake Bay Stock Assessment  
10 Committee will be meeting on May 19<sup>th</sup>. They will put  
11 together an advisory report like they do every year.

12 In terms of adjusting any regulations, it's  
13 possible that we can do some minor adjustments, but I  
14 want to be really up front and say we want to be really  
15 careful with this. And we're not going to do anything  
16 till we hear from the Stock Assessment Committee. But  
17 in the meantime, I think what would be a worthwhile  
18 exercise would be for members of the industry to work  
19 through -- if you can work through your constituents  
20 and, maybe, have a conversation about what kinds of  
21 adjustments you would think would be beneficial --



1 short of a wholesale rollback, because we're not going  
2 to do that -- that would be a conversation that we  
3 should have.

4 And maybe what we'll do is figure out -- I  
5 don't know, Tom, how well -- put together a work group  
6 or -- at some point to talk about that.

7 MR. GROSS: It's got to be quick. I mean,  
8 it's got to be real quick. I tell you what I see,  
9 Lynn. We made a two-year upward swing in the  
10 juveniles. It didn't take you two years to take the 34  
11 percent from us. I would really like to see some laws  
12 relaxed and to get us -- because, our harvest numbers  
13 are going to be low because of the restrictions.

14 You know, on this chart when we got the  
15 harvest restrictions, our numbers started falling off.  
16 Well, our numbers fell off, because you cut us back  
17 from 24 hours a day to 12 hours, which was 50 percent.  
18 Nobody's taking that into account. And we keep saying  
19 that year after year after year.

20 We need the help right now. We need it. The  
21 numbers are up, and -- for a lot of reasons. And I

1     don't want to get into all that. But, I mean, our  
2     crabs now are being caught in the lower Bay, and we got  
3     to buy 'em to open our markets up here. I mean, so we  
4     need to --

5             MS. FEGLEY: Well, and I just -- I mean, I  
6     understand, but I'll tell you why we want to be  
7     careful. I mean, this is the stuff that we want to be  
8     careful of. We want to be careful of a point like this  
9     to a point like this; and a point like this, to a point  
10    like this.

11            And really, what we have to remember is that  
12    we want to fish this population -- we want 46 percent  
13    of these critters coming out of the Bay every year. In  
14    2008 when we put the fall female bushel, and we closed  
15    quite early, we wound up at 48 percent. In two -- at  
16    48 percent against our target level of 46 percent. In  
17    2009 we wound up at 43 percent, which is good, but that  
18    means that, on average, between 2008 and 2009, we were  
19    sitting right at the target, which is where we want to  
20    be.

21            So we want to be really careful that we

1     manage this thing, because if -- that's the only way  
2     that we're going to get this thing -- I mean, this one  
3     little uptick is not a comfort zone. And if we were to  
4     roll back and we get a point like this next year, which  
5     is crabs. And we all know what crabs are, then we're  
6     going to be pulling the rug out from under you all over  
7     again. And we're just not prepared to do that.

8             MR. VAN ALSTINE: Lynn, this brings us to a  
9     point that Russell Dodge was making four years at the  
10    Tidal Advisory Committee. And when he -- it took me up  
11    until this point here to get the right word. It wasn't  
12    a flag, it was a trigger.

13            MS. FEGLEY: A trigger. Yes.

14            MR. VAN ALSTINE: So those were the words  
15    that were discussed four years ago at this very meeting  
16    with Russell Dodge. Are we safe to say that this tick  
17    you have here would be one of Russell's triggers? Now  
18    --

19            MS. FEGLEY: Well --

20            MR. VAN ALSTINE: -- because at that same  
21    time, you're comments were, okay. Here it is one -- we

1     want to see a couple blips. All right. But where  
2     Russell was coming at before we even got the blips  
3     where it would have been helpful over the past four  
4     years to -- well, let's put those triggers up. Let's  
5     say what they are so when we hit this point, it's --  
6     we've got a direction to go.

7             And Larry, you were on the Committee at that  
8     point. So if you have anything to add to recant from  
9     the Commissioners on those triggers that we were  
10    looking to have -- that was --

11            MR. GROSS: Well, Lynn wasn't the one with  
12    the trigger. I mean, Lynn had to discuss -- yeah.  
13    We're not asking for the world. I think that's -- we  
14    just need something back, Lynn. And I mean, we've been  
15    asking for something for a while. And, you know,  
16    there's been take, take, take, take. And now that the  
17    numbers are up -- for 10 years.

18            MS. FEGLEY: Right.

19            MR. GROSS: Because there's a lot of  
20    variables. We all know that. I mean, the rockfish  
21    come along, and you don't --

1 MS. FEGLEY: Well --

2 MR. GROSS: -- and the skates come out, and  
3 eat 'em up.

4 MS. FEGLEY: And I just want to -- I want to  
5 temper that a little bit, because, you know it hasn't -  
6 - in 2008, you know, we severely limited the entry to  
7 the fall fishery. We closed quite early. We did come  
8 back around in 2009 and completely revisit how the --  
9 we worked really hard with the industry. This is --  
10 you cannot make everybody happy in this business. But  
11 we made a concerted and directed effort to completely  
12 restructure the way that we met our 46 percent. And we  
13 achieved it.

14 So we're not standing here saying that we're  
15 going to take everything away. We're interested -- you  
16 know, we're interested in working with you, but this is  
17 a highly variable and volatile situation. And you guys  
18 are businessmen, and we just -- we need to just be very  
19 careful with this. And I'm just trying to be very  
20 honest and up front.

21 MR. VAN ALSTINE: And I'm abreast of that.

1     You know, what I'd like to see is if we could move into  
2     the future with this, Lynn, is to take Russell's idea -  
3     - with that conversation that you guys had with your  
4     triggers. Formulate them now. Let's get them.

5             That was -- I believe Russell's intent at  
6     that discussion was -- he said, "Let's get something on  
7     paper now so when we know we're back on the straight  
8     and narrow" -- and you've had the time to move forward.  
9     These are the directions that we're going to go to ease  
10    them before they get to that point.

11            MS. FEGLEY: Right.

12            MR. VAN ALSTINE: I think now is certainly  
13    the time to start structuring. And, Larry, you were on  
14    the committee. James, you were on the committee at  
15    that time, too, when it comes to this very topic, I  
16    think now is certainly the time. If it's not immediate  
17    relief, but let's start structuring, which I would have  
18    hoped we would have done a couple of years back. And  
19    that was a heated discussion, you know, four years ago.

20            But I think it behooves us at this point to  
21    set that structure into motion, get those groups

1     together to decide what -- we hit trigger one, we hit  
2     trigger two. By the time we hit trigger 13, what's our  
3     plan of attack, and where do we see the idea --

4             MS. FEGLEY: Right. I think --

5             MR. VAN ALSTINE: --let's get something in --

6             MS. FEGLEY: Yeah. And let me just say a  
7     word about the triggers, which have been something that  
8     I've been interested in for a bunch of years. The only  
9     way triggers are going to work is you need to have  
10    Virginia on board with that. And that's one of the  
11    things that we've been working on.

12            So it's -- I'm not saying it's not doable.  
13    It's a complicated process. It's something we need to  
14    work toward.

15            There's two caveats. One is we have this new  
16    stock assessment that's under way that's going to be  
17    completed in 2011. And I think that that assessment  
18    would really help guide that process. And the second  
19    thing, the alternative to triggers, which I think  
20    everyone should think about, is that we have a really  
21    good estimate of the number of crabs that are in the

1 Bay each winter. It's a good estimate. It predicts  
2 the subsequent harvest very well. So when we see the  
3 number of crabs in the Bay in the winter, we can say,  
4 within 10 or 12 percent, what the harvest -- the  
5 upcoming harvest will be.

6 So we know that there's this many crabs in  
7 the Bay. And we also know we can take 46 percent of  
8 them. So really what that says is what we should be  
9 doing is saying here's the number of crabs in the Bay.  
10 This is the Baywide quota for this year. And that  
11 should be divided among Maryland and Virginia and  
12 Potomac River. And then somehow we find a way. And  
13 that makes sure every year that the harvest is balanced  
14 with the abundance, and it gets around.

15 And that's not -- don't be -- don't confuse  
16 setting a quote with a catch share. A quota doesn't  
17 have to, but that is -- I believe that is the most  
18 sure-fire way to manage and predictable way to manage  
19 this fishery.

20 MR. VAN ALSTINE: And I'd have to -- with  
21 that thought in mind, I'd have to go back up and look



1 at some of the years that the seasons were cut short.  
2 We let the crabs go. They didn't go to Virginia. They  
3 stayed. We had a cold winter, they died. We gave up  
4 something so -- my thought process in how that would go  
5 is if your quotaing stuff up between Maryland and  
6 Virginia and the Potomac River, I just don't see that  
7 that's going to function.

8 MS. FEGLEY: But the numbers that we estimate  
9 every year are -- these numbers are adjusted for over-  
10 winter mortality. The over-winter mortality this past  
11 year on adult crabs was 11 percent, which, by the way,  
12 was the second highest we've seen in our time series.

13 MR. GROSS: Cold this winter.

14 MR. GRACIE: Larry, you were next.

15 MR. SIMMS: Yeah. A couple things here. One  
16 thing, what John's talking about with Russell and the  
17 last board, and we would like to have it before the  
18 fact, not after the fact, because nobody trusts the  
19 Department. Lynn, you know that.

20 MS. FEGLEY: I got that.

21 MR. SIMMS: Crabbers don't trust the

1 Department. If we had a target -- a trigger that said,  
2 "Okay. This is going to allow you to do this and  
3 that," and you had it beforehand, not coming along now  
4 that we got a little test and everything. Now we're  
5 going to try to figure that's the trigger, and --

6 MS. FEGLEY: Well, that's the point of  
7 triggers. It's --

8 MR. SIMMS: I know.

9 MS. FEGLEY: -- is everybody agrees to them  
10 beforehand, and they're (unintelligible). That's  
11 exactly right.

12 MR. SIMMS: You need to have that mapped out  
13 beforehand, not wait until it happens and then try to  
14 figure it out, because the crabbers are going to think  
15 that you manipulated it and hold it down, and whether  
16 you do or whether you don't. But they're going to  
17 think that. Then you got a battle in your hand. If  
18 you do it first -- if you do it ahead of time and it's  
19 there on a piece of paper, when we hit that mark, we  
20 know a certain amount of restrictions coming off.

21 Now, I want to get on another topic here.

1 One thing we got to be careful about is Virginia's in  
2 this ball game. And the reason we were successful this  
3 year is because Virginia was in it. We didn't save the  
4 crabs for Virginia to catch. Virginia saved them too,  
5 and we come out all right.

6 Well, we don't want to upset that, because  
7 the watermen in Virginia are begging to try to get  
8 winter dredging back. They'll already have -- try to  
9 cut -- give them 15 more days in the sanctuary. So  
10 they're already pushing -- putting a big push on to  
11 lift the restrictions. So we got to be careful that  
12 when we do any kind of manipulation, we don't too much  
13 and give them the go ahead to say take them all off,  
14 'cause then we'll be right back where you're talking  
15 about on one of them downturns.

16 MS. FEGLEY: You're right. You're right.  
17 Any -- you're right. And we are very cognizant of  
18 that, and that is certainly a reason to tread  
19 carefully. It's remarkable when the entire Bay worked  
20 together on this, you can get a result. And if we  
21 upset that balance --

1 MR. SIMMS: And we've got to be careful.

2 MS. FEGLEY: It's important. And it's  
3 important -- and really, I think that we do have the  
4 ability, even under the regulatory structure that we  
5 have set up now, you will have the opportunity to see  
6 your harvest grow. You will be able to meet those  
7 bushel limits on more days.

8 There will be opportunity, you know -- there  
9 are -- the harvest is going to go up. The harvest went  
10 up last year. The harvest was higher in 2009 than it  
11 was in 2008. So your harvest, even under this  
12 regulatory structure, is -- has the opportunity to  
13 expand.

14 But you're right. We want to be really  
15 carefully with that balance.

16 MR. SIMMS: To get back -- 'cause you got  
17 back on that other subject. You got the chart right  
18 there. And you got a high point there of 500 where  
19 that high point is. Okay.

20 So you say, "Okay. That's the trigger to  
21 take of X-number of amount of restrictions that you put

1 on when it was at a low." We need to know that ahead  
2 of time. We need it there ahead of time.

3 We don't want it to wait until it happens and  
4 then say, "Well, this, this, and this." We need to  
5 say, "There's the trigger." If that's what it takes,  
6 that number there to hit a trigger, then that's what it  
7 takes.

8 But do we know what we're shooting for? And  
9 when we get there, we know we're going to get  
10 something.

11 MS. FEGLEY: And your -- yeah.

12 MR. SIMMS: Now, my point is -- the only  
13 thing -- the one thing that we really need more than  
14 anything else, we need a continuous supply of female  
15 crabs going to the market. 'Cause what we found last  
16 year, that two weeks we had off, we lost the Canadian  
17 market. When we went back crabbing, we didn't get it  
18 back, 'cause they stayed where they went. They went  
19 south.

20 MS. FEGLEY: Where'd they go? They went  
21 south?

1           MR. SIMMS: They went south, and they stayed  
2 there. They not going to come back after they already  
3 established a market. So we need that two weeks to  
4 have some kind of continuation of female crabs. It  
5 don't have to be a big abundance of them, but we need a  
6 continuation.

7           That's one thing that we really need in this  
8 -- with this gift that we've got here. And it's not  
9 going to take many crabs to do that. And so just keep  
10 that in mind. I mean, I've been talking about that for  
11 the last six months, because the crabbers were really  
12 decimated, because that's a high-price market -- the  
13 females in the Canadian market. And when they left,  
14 they didn't come back. Everybody thought they would,  
15 but they didn't. They stayed south.

16           And that was -- so keep those kind of things  
17 in consideration, because it's about money. It's about  
18 crabs, but then it's about money.

19           MS. FEGLEY: Right.

20           MR. SIMMS: And so the more money we can get  
21 for crabs, the less crabs we got to catch.

1 MS. FEGLEY: Okay.

2 MR. GRACIE: All right. Bill Goldsborough is  
3 next, and then James, if you still had something you  
4 want to say. Bill.

5 MR. GOLDSBOROUGH: Lynne, just to clarify  
6 what you're talking about for this year for possible  
7 adjustments, is to stick with the 46 percent, but make  
8 an adjustment on how you get it.

9 MS. FEGLEY: The 46 percent is absolutely  
10 necessary. Yeah.

11 MR. GOLDSBOROUGH: So maybe adjusting how you  
12 get it, sort of like you did last year, but not the  
13 part of the 46 percent.

14 MS. FEGLEY: Right.

15 MR. GOLDSBOROUGH: And I wanted to make a  
16 point, but you just made it that even at that, with the  
17 population going up, the catches will go up.

18 MR. SIMMS: Maybe. It depends on the effort.

19 MR. GOLDSBOROUGH: No. If you achieve the 46  
20 percent.

21 MR. SIMMS: Oh, if we achieve it. Yeah.

1     Yeah.   Yeah.

2                   MR. GOLDSBOROUGH:   And also that crabs there,  
3     of course, is the history -- or like the time that  
4     we've had the winter dredge survey, but there's a whole  
5     lot more history of the crab fishery, of course, where  
6     we just don't have that data.  And if we had that data,  
7     we could see a whole lot different picture --

8                   MS. FEGLEY:   Yeah.  I think, you know, there  
9     --

10                  MR. GOLDSBOROUGH:   -- numbers.

11                  MS. FEGLEY:   -- and we do.  I mean, to a  
12     degree, we have -- we do have some data.  And those are  
13     in the trial surveys in Maryland that have been going  
14     on since '77 and the trial survey in the Virginia  
15     that's been going on since the '60's.  And what you see  
16     is -- really the normal state would be sort of this  
17     high variability with a lot of high points.  And then we  
18     have this -- we had this dive here that was very flat  
19     and very low, which is not -- you know, that's what we  
20     -- that's that.

21                  MR. GOLDSBOROUGH:   And the point I want to



1     make on that is -- and Larry, I know when you said the  
2     high point there, that was just an example, but for --  
3     if we ever do develop triggers, the stock assessment  
4     that's coming up that takes into account all those  
5     other data sets, is going to be the place you do that,  
6     not just from this --

7             MS. FEGLEY: That's right. That's right.  
8     And that's exactly right. And the other thing -- just  
9     for full disclosure what that stock assessment is going  
10    to look at is whether or not it will achieve it or not,  
11    because they don't know whether or not the data will  
12    let them, but because, essentially, with crabs we have  
13    two very distinct fisheries. One for females; one for  
14    males. You know, a male crab and a female crab --  
15    they're born the same, but then they grow differently.  
16    They're fished differently. They have different  
17    markets. And they die differently. So they're very --  
18    they're actually distinct fisheries. And we can  
19    distinguish them in the harvest.

20            So what they're going to look at doing, which  
21    would be very helpful, is developing separate reference

1 points, one for males, one for females so that we --  
2 and that would -- and that's actually probably going to  
3 helpful for everybody in the industry, because it will  
4 allow us to really manage those two distinct  
5 populations. Now we're trying to manage it all  
6 together, and it's hard, because, depending where you  
7 are, you're functioning in a different fishery. So  
8 that's one of the things we're working on.

9 MR. GRACIE: James.

10 MR. SIMMS: Bill had answered my question.

11 MR. GRACIE: Richard.

12 MR. YOUNG: When -- first off, there's two  
13 things I want to talk about. You showed that uptick  
14 last year, and you said that the harvest was up from  
15 last year. My harvest was down about 40 percent.

16 MS. FEGLEY: Your harvest last year was down  
17 40 percent?

18 MR. YOUNG: Yes, ma'am. It was lower last  
19 year than it was at that low spot in 2007. And the  
20 reason for that is because I could not buy a bushel. I  
21 couldn't catch a bushel of crabs from July the 3<sup>rd</sup>

1     until August the 12<sup>th</sup>. I'd go out all day. I'd post  
2     400 crab pots in a day, and I'd come home with two  
3     dozen ones and maybe three dozen number twos. And  
4     that's what I'd do.

5             And if I hadn't been able to retail and if I  
6     had to wholesale my crabs, I wouldn't be sitting here  
7     in front of you. I'd be out of business.

8             MS. FEGLEY: Right.

9             MR. YOUNG: And, thank God -- and I don't  
10    know how I made it through the winter. And so I'm  
11    questioning the harvest being up last year.

12            MS. FEGLEY: Well --

13            MR. YOUNG: And everybody in my area  
14    experienced the same thing. For six weeks we could not  
15    catch crabs. I don't know where they were.

16            Now, my second thing is -- and Larry  
17    mentioned nobody -- crabbers don't trust the  
18    Department. One thing is when you started pushing  
19    these restrictions a couple years ago and you were  
20    coming in and you were saying, "When we hit this two  
21    hundred million target for three consecutive years,

1     then we'll start thinking about putting these things" -  
2     - "restoring some of these suspended licenses and doing  
3     this and doing that."

4             Now it's an "interim" target. So now that  
5     target may change next year.

6             MS. FEGLEY: But the interim --

7             MR. YOUNG: But -- wait a minute, now. If  
8     that -- if you don't take the steps that you promised  
9     everybody you were going to do when you started this  
10    thing, distrust of the Department is going to go sky  
11    high, because that was said.

12            And we all sat there in these meetings. I  
13    wasn't on the Board then. I was back there. But I  
14    heard it. And everybody heard it. Two hundred million  
15    for three consecutive years, that was it. And then  
16    we'd start -- we could start bringing these things back  
17    in.

18            And here we've got it for two years. That  
19    means next year, if it's up, either you start putting  
20    them back in or people are going to think you're not  
21    doing what you say you're going to do. And there's the

1 distrust again.

2 MS. FEGLEY: Right. I understand. And I  
3 have to say that there's never been -- from the moment  
4 that target was created -- and if you go on line to the  
5 Maryland Chesapeake Bay Office and you look at that  
6 document, that they -- it's very clearly stated and it  
7 has been very clearly stated since the day the  
8 scientists came up with this, that they consider this  
9 an interim target.

10 And I don't know -- you have a very good  
11 point. But I don't know how to get around -- you know,  
12 we have assessments in the ASMFC arena now where things  
13 today look completely different than they did three  
14 years ago. And that is somewhat the nature of stock  
15 assessment. We get more data. The interim target has  
16 always been there. It's a fair point. It's a fair  
17 point.

18 MR. YOUNG: The issue I see is that these LCC  
19 crabbers that -- they feel like they're targeted. And  
20 they feel like they have a -- even the ones that aren't  
21 frozen, they feel like some of them have a bull's eye

1 on their back, that their license is going to be  
2 eliminated. It's no longer going to be a LCC available  
3 on the Bay.

4 And the big fear in here is that -- okay,  
5 well, now what they're going to say is, "Oh, they said  
6 200 million for three consecutive years. All of a  
7 sudden, now it's going to change to four. What's it  
8 going to be next year? Five, six, ten years? Am I  
9 never going to be able to get back there again?"

10 And this is -- I mean, I don't -- it's not  
11 me, 'cause I got the TFL, I'm okay for now. But that's  
12 what a lot of these people are thinking. I hear -- I  
13 see it every day in some of the places online I go.  
14 You know, people are scared. One guy's selling his  
15 license, 'cause he doesn't think he's going to keep it  
16 anyway, so he might as well sell it while he can.

17 And, you know, I don't know. It's just a  
18 scary thing. And people are rightly scared. That's  
19 all. I'm sorry.

20 MR. GRACIE: Okay. One more.

21 MR. VAN ALSTINE: And I just want to bring it

1 back. So we need to start that ball rolling that  
2 Russell -- that this committee brought up four years  
3 ago. If we had that, the problems we're seeing now --  
4 the emotion's taken out of it and we're looking at  
5 numbers. We're looking at things and that's for the  
6 future.

7 MS. FEGLEY: Well, it is. And it is true  
8 that, you know -- there's two ways that are your best  
9 defense and offense, and that is good decision rules --  
10 which are triggers, which, by the way, go both ways --  
11 and the other way, with this particular fishery, is  
12 some sort of allowable catch. That -- those were the  
13 two -- those were two ways. So -- that's -- yeah. I  
14 agree.

15 Anything else on crabs?

16 MR. GRACIE: Thank you, Lynn. Tom.

17 MR. O'CONNELL: Just on oysters. You know,  
18 we briefed the full Commission at their late September  
19 -- late March meetings. A lot of the focus since that  
20 point in time was getting through sessions. You know,  
21 there really hasn't been any significant changes to the

1     -- to what I presented to you at the last meeting. The  
2     scope had a lot of discussion in St. Mary's and Talbot  
3     County, and those discussions are still ongoing.

4             So maybe at this point in time, rather than  
5     me repeating myself, I'll provide an opportunity for  
6     all of you to ask me the questions that you may have.  
7     I mentioned earlier that we're looking at May 27<sup>th</sup> as  
8     the submittal date for the regulation.

9             MR. GRACIE: James.

10            MR. GROSS: Tom, is it -- has there been any  
11     discussion in Anne Arundel County and Calvert County?  
12     Because I've heard that it was some discussion and some  
13     plans changed in Anne Arundel County and Calvert  
14     County. And has there been anything new developments  
15     in those two counties?

16            MR. O'CONNELL: As far as I know, J.R., Anne  
17     Arundel County -- the only change that you may have not  
18     seen since we've last met with you is a sanctuary on  
19     the main stem towards the southern end of Anne Arundel  
20     County to compensate for some of the changes elsewhere.

21            I'll be happy, after the meeting to share



1       that with you. The main stem of the Chesapeake Bay.

2               MR. GROSS: A sanctuary?

3               MR. O'CONNELL: Yeah.

4               MR. VAN ALSTINE: Do you have the names of  
5       the bottom?

6               MR. O'CONNELL: No. I don't. But I have a  
7       map I can share with you afterwards to see if that's  
8       something you hadn't seen or not. I'm not sure on the  
9       timing of that was since we last met.

10              MR. GROSS: How about the lease problem. How  
11       about Calvert County?

12              MR. O'CONNELL: In Calvert County, you know,  
13       basically, there's been -- there was two different  
14       options for the sanctuary plan. Initially, we were  
15       proposing the upper portion of Calvert County on the  
16       Patuxent River.

17              MR. GROSS: Right.

18              MR. O'CONNELL: And the answer came back and  
19       said that area was very important for them. So we  
20       looked at how to make it a closed, open, closed, open  
21       system. And after discussing that, they went back and

1 preferred the first option. So we're back to the first  
2 option, which is dealing with the (unintelligible) of  
3 the Patuxent River. And then there's been a bar near  
4 the mouth of the Patuxent -- two bars. One inside the  
5 Patuxent and one just south of the mouth of the  
6 Patuxent, which has been added.

7 MR. GROSS: Tom, at this time I'm going to  
8 make a motion that the Department refer to the County  
9 Seed Committees in each county when making a decision  
10 in that county for lease bottoms of the sanctuary.

11 MR. GRACIE: Do you want to conduct this,  
12 Jack?

13 MR. BROOKS: Okay. Thank you, Jim. Okay. A  
14 motion's been made that the DNR consult each county  
15 seed committee --

16 MR. GROSS: Right.

17 MR. VAN ALSTINE: I'll second it.

18 MR. BROOKS: -- when discussing these bars.  
19 Second? John.

20 Okay. Discussion.

21 MR. VAN ALSTINE: I'd like to bring up that

1 at the last Tidal Advisory meeting we asked that -- the  
2 Department was looking to have a regional oyster  
3 committee. And during that we brought up this. The  
4 Tidal Advisory voted on it unanimously that the County  
5 Oyster Committees stay intact, and if there is to be a  
6 regional, it is to involve the counties -- seed  
7 committees.

8 And there have been any decisions made -- and  
9 we'll take Anne Arundel County for a fine example of  
10 this point -- on taking another piece of bottom for a  
11 sanctuary. The Anne Arundel County Seed Committee has  
12 not been brought into that discussion. And that's what  
13 we want to make sure with J.R.'s motion, that there's a  
14 decision can be made in the counties until there's a  
15 regional organization brought up which is going draw  
16 from the county association, then the county  
17 associations need to be brought into the fray for these  
18 discussions. Not just a representative of the oyster  
19 industry, but a county representative from the County  
20 Seed Committee. Until which time there is what the  
21 Department wants, the regional. But that regional is

1 still going to be required to draw from the information  
2 from the County Seed Committee.

3 So just -- one month ago we made the decision  
4 and felt we got that information across to the  
5 Department that the County Seed Committees are the  
6 precedence. They require attention if any activity's  
7 to be made in the county to get support from the  
8 opposition. I mean, we don't want to have opposition  
9 of every -- I don't want a heart attack every time we  
10 come to meetings when we're discussing that stuff. So  
11 to avoid that -- just to make sure everybody's aware of  
12 what's going on when it happens.

13 MR. GROSS: Where this is coming from is I've  
14 heard that there was a meeting of DNR, and some bottom  
15 in Anne Arundel County was traded for some bottom in  
16 St. Mary's County. You know, I don't know. I haven't  
17 gotten any information from the Department, so I don't  
18 know. I just -- that's what I heard that it was some  
19 bottom given up in Anne Arundel County for lease for  
20 bottom in St. Mary's County to dredge. And, you know,  
21 that's a four-hour truck drive for me. That really

1 sent me into a state of where I didn't want to be.

2 So that's why we need the Department to be in  
3 touch with those people in that area that know that  
4 bottom the best -- that know that area the best. We  
5 need to have a voice in what's going on.

6 MR. BROOKS: Okay. Any more discussion on  
7 the motion?

8 (No response.)

9 MR. BROOKS: Public Comment on the motion?

10 (No response.)

11 MR. BROOKS: Okay.

12 MR. GARY: Before we go, let's nail it down.

13 MR. BROOKS: All right. J.R., the motion was  
14 to require County Seed Committees -- go ahead. I  
15 didn't catch the end of it.

16 MR. GROSS: All -- to require the Department  
17 --

18 MR. GARY: Require the Department --

19 MR. GROSS: -- to contact and consult with  
20 the County Seed Committees --

21 MR. GARY: The whole committee?

1 MR. GROSS: -- the whole committee, yeah.

2 The whole committee.

3 MR. BROOKS: With the entire County Seed  
4 Committee?

5 MR. GROSS: The whole committee or their  
6 representative that they send -- a representative that  
7 they send in the county, because I want the ability to  
8 -- it's five seats in most counties. And I want the  
9 ability to have five people there at all meetings. So  
10 if I can get the presidents of the county committees to  
11 come, then I want them to come, too.

12 MR. BROOKS: So to require the DNR to consult  
13 with the entire County Seed Committee prior to making  
14 decisions about sanctuaries and lease bottoms.

15 MR. VAN ALSTINE: In those counties.

16 MR. GROSS: In those counties.

17 MR. BROOKS: Prior to making decisions  
18 regarding sanctuary bottom in their county.

19 MR. GARY: On lease bottoms?

20 MR. BROOKS: Prior to making decisions on --

21 MR. GROSS: Do this, Marty. Instead of

1 saying sanctuary and lease bottoms, do this. Do public  
2 bottom, that broadens that -- do public oyster bottom,  
3 because if you do that, that's all we're concerned  
4 about.

5 MR. GARY: Prior to making a decision on  
6 public oyster bottom?

7 MR. GROSS: Public oyster bottoms, and any  
8 decision made in public oyster bottoms, because that's  
9 --

10 MR. VAN ALSTINE: As part of the discussion,  
11 what it's going to do is it's going to bring the  
12 Department to the community's eyes that they're work is  
13 not something -- so we don't have (unintelligible).

14 MR. BROOKS: Yeah. We've got to clarify the  
15 motion here. And so back to J.R. again. All right.  
16 So we -- did you want to amend it again?

17 MR. GROSS: Yeah. You're going to have to  
18 put sanctuary lease bottom and public bottom in there,  
19 because if you change it to sanctuary, then we don't  
20 have -- we can't do anything about it. Thank you,  
21 Marty.

1                   MR. BROOKS: Okay. So how do you want this  
2 to read?

3                   MR. GARY: Require DNR to consult with the  
4 entire County --

5                   MR. GROSS: Seed Committee.

6                   MR. GARY: -- Seed Committee prior to making  
7 decisions --

8                   MR. GROSS: On the sanctuary lease and public  
9 bottoms.

10                  MR. BROOKS: On the sanctuary --

11                  MR. GROSS: Lease and public bottoms.

12                  MR. BROOKS: Lease, comma --

13                  MR. GROSS: Right, and public bottom.

14                  MR. BROOKS: -- sanctuary, comma, and public  
15 oyster bottoms. Does that read okay to you?

16                  MR. GROSS: Yeah. That's fine.

17                  MR. BROOKS: Is that what you got in mind,  
18 J.R.?

19                  MR. GROSS: Yes.

20                  MR. GARY: Who was the second on that?

21                  MR. BROOKS: John was second. John, is that



1 agreeable with you?

2 MR. VAN ALSTINE: Yes.

3 MR. BROOKS: That language, and is that the  
4 intent?

5 MR. VAN ALSTINE: Yes.

6 MR. BROOKS: Okay. Any more discussion on  
7 the motion?

8 (No response.)

9 MR. BROOKS: All in favor of this motion,  
10 aye.

11 VOICES: Aye.

12 MR. BROOKS: Opposed?

13 (No response.)

14 MR. BROOKS: Abstentions?

15 (No response.)

16 MR. GARY: It'll be 10, zero, then.

17 MR. BROOKS: Larry.

18 MR. SIMMS: Yeah. I wanted to comment to  
19 Tom, I don't know if Tom's aware of -- I'll let J.R.  
20 know that the only other discussion about Anne Arundel  
21 County -- John and people in the Department was

1 relaying to them that you wanted some dredge bottom in  
2 the county to experimenton. I wanted to put that on  
3 the record.

4 MR. O'CONNELL: Yeah. I'm aware of that and  
5 Secretary Griffin's aware of that.

6 MR. VAN ALSTINE: And I think as far as our  
7 Seed Committee comments, that's part of what we've  
8 presented.

9 MR. GROSS: Yeah. That was in the amendment.

10 MR. SIMMS: But I've been relaying that to  
11 them.

12 MR. GROSS: Yeah. Because Tom is in there.  
13 He has some concerns, too. You know, he called --

14 MR. GRACIE: Tom, are you finished?

15 MR. VAN ALSTINE: No. I'd like to ask if  
16 we're still on oysters. Are we still on oysters?

17 MR. GRACIE: That's what I'm asking.

18 MR. VAN ALSTINE: Yes. I have some comments.  
19 Tom, you, at the last tidal advisory said that you were  
20 going to have your office send out some information to  
21 me regarding leases, feasibility, cost analysis, who to

1     get in contact with to obtain shell or where  
2     established shell is available, some success stories in  
3     the state, some education. We're taking 675 jobs and  
4     steering them in the aquaculture direction.

5             MR. O'CONNELL: Who's taking 675 jobs?

6             MR. VAN ALSTINE: If we're steering our  
7     oyster industry in this state -- which is roughly 670  
8     individuals -- if we're steering them in the  
9     aquaculture direction, we're looking for the ground  
10    rules. It's not as though it's the sole individual  
11    choice that I'm making. It's a departmental decision  
12    to steer the direction of the harvest of the oyster in  
13    this state towards the aquaculture.

14            So at that last meeting, you know, I shifted  
15    my gears from discussing with you about taking public  
16    rock, and things -- and reallocate and change it, and  
17    tried to go a different direction. That if this is the  
18    way we're trying to head, show me the information that  
19    you have that's going to make me a viable  
20    aquaculturist. If we're being directed in that  
21    direction, obviously the Department has thought long

1 and hard about this. They have statistics, they have  
2 analysis, they have cost measures that would be in  
3 place, as a businessman, I would be able to draw upon.

4           You indicated that you had those. You sent  
5 me, what I'm assuming to be your most recent  
6 information, and what was sent to me was from 1984,  
7 1985, there was two items on here. What it talked --  
8 some of the information that was sent to me, it  
9 discussed Virginia. I didn't even get into it. We're  
10 looking at Maryland and what's available in Maryland  
11 with our (unintelligible) -- not the James River, not  
12 Delaware Bay, not South Carolina -- along those lines,  
13 just to see -- have an understanding as to where I'm  
14 going here. Because most of those individuals that are  
15 being steered in the aquaculture industry have a leased  
16 bottom to begin with, which is a bottom-lease, not an  
17 off-bottom, which would effect the rest of the  
18 recreative public or the commercial fisherman.

19           So the stuff that was sent was limited. I  
20 read through it. I spent eight hours reading through  
21 it and five hours on the phone, because then there was

1     also a short summary on one of these pages here which  
2     outlined all the resources that were drawn upon and  
3     sent to me. And that outline supplied people like  
4     Tommy Zinn, the president of Calvert County Watermen's  
5     Association. And it indicated that he was setting up a  
6     remote setting a system. We've got comments in here  
7     about (unintelligible) Brown interested in setting up a  
8     remote -- a lot of interest. And interest is  
9     wonderful. I'm all for it. I've had tons of interest  
10    in it for some time.

11               But interest doesn't produce the products  
12    that we're going to need when we're trying to steer  
13    this year to promote the aquaculture industry for the  
14    watermen, because on some of the draft proposals we  
15    have there's definitive stuff, if it gets off the  
16    draft, that we're going to be responsible. One short  
17    one would be the supply of shell.

18               So you have listed to me some of the  
19    suppliers. You've got Lou (unintelligible). You've  
20    got Bay One Hundred. When I talk to people like Eis  
21    Ferry, it's like, you know, "We have a very small

1 amount of shell, and what we have, we ought to use for  
2 our property or for a local individual, or we sell it  
3 back to the State."

4 And the overbearing response was that if we  
5 have any, we sell it back to the State. Now, your man  
6 has since contacted me back and said that that is not  
7 to take the precedence. The aquaculturalist is to take  
8 the precedence over the State. Which then posed a  
9 whole other concern for me for the State. You know, if  
10 we have this large influx of aquaculturalists, the  
11 State's not going to have enough shell to manage their  
12 hatchery, a totally separate concern, but, nonetheless  
13 a concern.

14 Some of the larger ones -- it's just not the  
15 volume of shell that's there. So we need to look  
16 towards the future as to what the reclamation of shell  
17 is. But these are all things that are in the future,  
18 where the draft and things are indicating things that  
19 need to be done this season, next season, or we're  
20 going to potentially lose the bottom. And none of us  
21 want that to happen.

1           Now, on your end, your man this evening just  
2       handed me a whole other package. So I'll spend another  
3       eight or so hours reviewing that.

4           When we hit cost analysis, the most  
5       concerning part that I got to was Doug Lipton's, which  
6       is the State's Economist for the University of  
7       Maryland. And he sent me his EIS statement of 2007,  
8       one of the most recent pieces of information that I  
9       could get. I'm not going to bore everybody with  
10      reading the two paragraphs that go with this, but I'm  
11      going to read the end synopsis on what the State's  
12      Economist came up with.

13           I don't know what the right word is, but to  
14      give you just a short snippet of the paragraphs before  
15      this was on natural seed being used with a best-case  
16      scenario of potential -- now there were a lot of  
17      variables that were in here, but this is out best-case  
18      information that we have to this point from your  
19      office. This is the best information that we have.

20           And our best-case scenario with a 10 percent  
21      survivalship, the least-case at one percent, which was

1 most likely on a wild transplanted oyster in  
2 aquaculture for survivalship. If we move to a  
3 hatchery-raised animal, we need, before we go bankrupt,  
4 to have a minimum of a 16 percent survivalship,  
5 according to what Doug's got written here. In both  
6 cases, you go bankrupt in two years according to what  
7 the State Economist is saying.

8 Now, I'm going to read the last statement to  
9 that portion of it. And bear in mind I didn't move  
10 into off-bottom culture. I didn't move into surface  
11 culture, because we're not looking to effect other  
12 industries in the State. And, like I said, we're  
13 trying to transition quickly. Most of our watermen  
14 already have a bottom lease and are more than anxious  
15 to move in that direction.

16 The last statement is, "This result  
17 illustrates why standard on-bulk, bottom-culture of  
18 native oyster is not expanding and is unlikely to be  
19 part of a scenario of oyster restoration." That's our  
20 State's Economist.

21 I certainly want to move into aquaculture. I



1     need better information than this.  If I were -- if I  
2     were just an individual coming off the street --  
3     because your office indicated that it's not their  
4     responsibility to be providing me with the information  
5     I'm requesting.  If I were just coming off the street  
6     interested in getting into the aquaculture, I would  
7     agree with you.  But with this Governor's proposal  
8     steering us -- the aquaculture -- the oyster industry  
9     in this state towards aquaculture, I believe that the  
10    Department bears a certain responsibility to produce  
11    some of this.

12               And it's not like it's not available.  I  
13    indicated to your individual that you've got programs  
14    that are available all over the State that show cost,  
15    that show survivalship, that show where we want river  
16    systems.  I've actually spoken with the Oyster Recovery  
17    Partnership, which the Department is a primary partner  
18    with, has the explanation.  He indicated back to me  
19    that you can't compare restoration with harvest.

20               And I said, "Well, wait a minute, that's not  
21    wholly true for the simple reason is is that it's not

1 all restoration that that group is doing when they  
2 manage reserves. A managed reserve you can show the  
3 cost. You can show what it cost to put that animal on  
4 the shell. You can show what the shell costs, the  
5 electricity to run the pump, these types of rudimentary  
6 prices.

7 Then you can also show the return, because  
8 you know how many bushel of oysters were harvested,  
9 because they're micro managed as reserves. So you can  
10 have a very good idea as to what they're being sold for  
11 and what kind of price that they command.

12 That was more of the type of idea that I was  
13 hoping to get from you so we can take it back to  
14 everybody else and say, "Hey, this isn't just fluff.  
15 This is something we can honestly do."

16 For eight years I've been involved in it  
17 trying to hope that we can come up with a feasible  
18 product. I mean, Doug's -- one of Doug's products  
19 right here is taking a \$30 bushel that we catch wild  
20 and jacking it up to \$82 for a bushel of oysters. And  
21 it's not -- we're not quite there.

1           With that being said, most of us that are  
2   interested in aquaculture have held off on buying wild  
3   seed delivered up to our rivers, because our  
4   (unintelligible) levels are low. We were looking for  
5   that (unintelligible). I kick myself in the tail now  
6   for not modifying a boat every year to put on my  
7   planting ground to be viable at this stage to continue  
8   in the oyster industry. These are the questions that I  
9   still -- and I hope this package is just jammed full of  
10   that information.

11           But I really want the Department to help take  
12   charge of this. If they're promoting this endeavor, I  
13   feel that the Department carries a certain  
14   responsibility to provide this. We've got stuff here  
15   that -- it's listed as educational outreach that's  
16   proposed. Lot's of proposals, and they're all  
17   wonderful, but we need stuff for the here and now,  
18   today before we start taking more bottom, opening it up  
19   for more leases.

20           Part of this concern when I read this was,  
21   you know, you're looking at taking a lot of open-Bay

1     leases and transferring them to aquaculture out in the  
2     main stem of the Bay and declassifying those bottoms.  
3     To me, with what I read right here, we wouldn't want to  
4     declassify any bottom.

5                So I just wanted to bring you up to date with  
6     what I'm finding from the research that you're sending  
7     me and hope that you have some comments that will help  
8     benefit the industry and where we're going.

9                MR. O'CONNELL:   John, I mean, Steve Snyder  
10    has given you all the information that we now available  
11    to us.   And one of the reasons that we don't have  
12    information locally, is because there's been all these  
13    barriers regarding aquaculture in Maryland.

14              So, you know, we're at a point in time we're  
15    providing as much information as you, as a business  
16    owner, and others to make a decision.   If you don't  
17    think there's enough information to make a business  
18    decision, then you probably won't.   But we have a lot  
19    of other people that do see things working world-wide,  
20    and they are interested.   And they're going to take the  
21    opportunity to go forward, and we're going to work very

1     closely with them so we can begin to collect the  
2     information on a local, specific level throughout  
3     Maryland so others can make a decision.

4             I won't -- you know, I don't know why you're  
5     so disclosed at looking at information from other  
6     states, even in particular Virginia. I know that the  
7     situations aren't completely identical, but I would  
8     argue that their experience with somewhat higher  
9     disease pressures than here in Maryland, and their use  
10    with selected strains and triploids could work even  
11    better here in Maryland perhaps.

12            So I know Steve has spoken to you a couple  
13    times. He's given you a lot of information. You're on  
14    the Aquaculture Coordinating Council. You have direct  
15    contact with Don Webster and Carl Rozier (phonetic). I  
16    know Steve has offered to take you down on a trip to  
17    Virginia to talk to people first-hand. You know, I  
18    apologize that we can't provide you with more  
19    information, but we're giving you everything we have.

20            MR. VAN ALSTINE: I've been to places in  
21    Delaware Bay. I've been to places in Virginia with the

1 State's Economist, as a matter of fact. I've been with  
2 him to North Carolina reviewing a lot of the  
3 information that was available at the time.

4 I guess that I'm going to have to back up and  
5 ask a huge question. That if this is the best  
6 information that we have, why are we looking at  
7 removing more bottom from the public domain -- the  
8 public harvest towards aquaculture when, at best case,  
9 this is our best information that the Department has?  
10 It seems it would behoove us to -- whoa! Let's take a  
11 look and utilize what bottom leases we have today  
12 existing before we start going towards -- if this is  
13 our best information that we've got, I certainly would  
14 - in the public's interest -- want to question why  
15 we're pursuing this.

16 MR. GRACIE: I need to make a suggestion that  
17 you have this conversation with Tom --

18 MR. VAN ALSTINE: I wanted to follow-up this  
19 response, because I asked for this information at the  
20 last Tidal Advisory. And --

21 MR. GROSS: What John was trying to get --

1 I've got a bottom lease. Just put three years, and I  
2 put \$4800 worth of oysters on it, got 96 free oysters  
3 back off of that lease. Lost \$4800. Why is the State  
4 looking to take public bottom for leasing when the  
5 leased bottoms that you have in the state right now  
6 isn't working?

7 It cost me \$82 a bushel to set larvae, to set  
8 spat on a shell. When I get that bushel, it's 82. I  
9 haven't sold -- I have never, ever for thirty years  
10 sold a bushel of oysters for \$82. Just -- it doesn't  
11 happen.

12 Right, that's the best case scenario. What  
13 we're -- as businessmen -- because we want to start --  
14 I don't want to be -- as soon as the leased bottom  
15 comes available -- scrambling to get gear and -- we've  
16 got to buy equipment. So we're trying to put a plan  
17 together. We've got to buy bobcats and trucks and  
18 stuff to move shell. If you -- you just don't jump  
19 into aquaculture and not have the equipment to do it.

20 So we've got to get -- I mean, I don't got  
21 the stuff. John don't got that stuff. We have --

1           MR. GRACIE: James, I guess my question is  
2 what do you expect these two Commissions to do tonight  
3 about this? I don't hear anything that we can respond  
4 to. I suggest that you get together with Tom and  
5 fisheries, 'cause it's a lot more detailed than we're  
6 going to do anything about tonight.

7           MR. GROSS: Well, I'm trying to --

8           MR. GRACIE: Is there something you want from  
9 the Commissions?

10          MR. GROSS: -- I'm making the Department --  
11 we're trying to make the Department aware that there is  
12 a problem. And the problem is we're coming to the  
13 Department for this information. Your information -- I  
14 can't go to a bank and get money with that information.  
15 They'd laugh me right out of the bank.

16          So we're making the Department aware of the  
17 fact that why are you going to take this bottom.  
18 Because if you take this public bottom, which they're  
19 going to take next year, it puts us out of the oyster  
20 business.

21          MR. O'CONNELL: I mean, again -- I mean, the



1 Chair seems like it wants to move on. There's a lot  
2 more detail to all these discussions. The State is  
3 much more optimistic than we hear tonight. We see  
4 things going on worldwide. We have to be looking at  
5 different selected strains and seed, and there's  
6 cheaper ways of setting them remotely. We have staff  
7 available to help evolve business plans. We're working  
8 with some of our (unintelligible) to help you get low  
9 interest, high risk loans.

10 Now, again, we have staff available --

11 MR. GROSS: Yeah. I understand all that,  
12 Tom, but I'm going to tell you something. We sat here  
13 and listened to you -- turbines, and all that stuff.  
14 And I really don't think it's fair that it's something  
15 that is this important to me -- I've oystered for 30  
16 years. Come next year, I've either got to get in my  
17 truck for four hours and drive somewhere to go to  
18 oyster, or I don't oyster. And I really don't think  
19 it's fair that because the Chair wants to move on that  
20 we're not going to discuss this.

21 I sat here for 25 minutes listening about

1 turbines, something that could have been pushed down  
2 the road, and I don't think it's fair. I really don't.  
3 And I don't, but, you know what, move on.

4 MR. GRACIE: We've had 25 minutes on this  
5 discussion, and it was five minutes on turbines, James.  
6 And all I'm suggesting is if there's a forum that can  
7 be more useful to you to get the information you want  
8 and get the feedback you want, then use that. I don't  
9 think we're going to resolve this tonight.

10 What Tom just gave you five other things that  
11 are going on that we don't even know anything about  
12 here. You might.

13 Do you have a forum for these people to talk  
14 to you in?

15 MR. O'CONNELL: No.

16 MR. GRACIE: Is this the only way they can  
17 complain is come to a commission meeting?

18 MR. O'CONNELL: No. I mean, as John said, he  
19 spent several hours talking to my staff persons  
20 providing them all the information that's available.  
21 What I'm thinking is that you guys want a very detailed

1 discussion on aquaculture that you guys may recommend  
2 to the Chair of Tidal Fish Advisory Commission to  
3 consider having a very focused meeting on aquaculture.  
4 We can bring Don Webster and Carl Grosier and Doug  
5 Lipton and lay it all out and see what we have and  
6 don't have.

7 MR. GRACIE: And that's really where I'm  
8 coming from. Isn't there a more useful or constructive  
9 way to deal with this? What do you want from these  
10 Commissions tonight is what I'm saying?

11 MR. SIMMS: How about if we put that in a  
12 motion what you just said.

13 MR. BROOKS: Okay, Larry.

14 MR. SIMMS: Okay. I don't know how to word  
15 on what you said. But we need to form a subcommittee  
16 to hash out the differences of the leased bottom and  
17 get the information we need to do it properly.

18 MR. BROOKS: Larry, why don't you just make  
19 it an action item and form a work group.

20 MR. SIMMS: Okay. Whatever works.

21 MR. GRACIE: I think that's -- it's properly

1     your Commission, Jack, not ours. So you make that an  
2     action item.

3                 MR. BROOKS: Action item to form a work group  
4     to --

5                 MR. GRACIE: I'm not trying to say your  
6     concerns shouldn't be addressed. I'm just saying we're  
7     not getting anywhere tonight. You need a different  
8     forum.

9                 MR. BROOKS: I don't know, to further explore  
10    the economics and feasibility of leasing and oyster  
11    farming -- oyster aquaculture. And we'll get the  
12    people here that can answer your questions in detail.

13                MR. GRACIE: Would that be more useful than  
14    this?

15                MR. VAN ALSTINE: The unfortunate thing is  
16    that it boils right back down to the same thing that  
17    Doug Lipton said right here.

18                MR. O'CONNELL: John, there's a lot of  
19    assumptions --

20                MR. VAN ALSTINE: I'm aware that there's a  
21    lot of assumptions, but until we have people that have

1 success stories in this state, and that's what -- I  
2 would hazard to stop taking away from the public  
3 fishery to facilitate something that isn't proven. And  
4 that's my whole thrust.

5 We can bring everybody here. I sat for eight  
6 years through the Aquaculture Coordinating Council, and  
7 I'm still at the same point. We're taking bottom from  
8 the public fishery for an endeavor which hasn't been  
9 proven in this state to be successful with the bottom  
10 it already has. That's my point.

11 MR. BROOKS: Okay. Well, we have this action  
12 item. The TFAC will form a work group to further  
13 explore the economics and feasibility of oyster  
14 aquaculture and leasing. Is that -- does that describe  
15 what we want to do and our target, here, our goal?

16 MR. GROSS: Yeah.

17 MR. VAN ALSTINE: Yeah.

18 MR. BROOKS: I need a second.

19 MR. GARY: It's just an action item.

20 MR. GRACIE: You don't need to move it. It's  
21 done. The Chairman's going to do it.

1 MR. BROOKS: Okay. Thank you.

2 MR. GRACIE: All right. Now, who's going to  
3 lead this discussion on river herring? I have Richard  
4 Young and DNR.

5 MR. YOUNG: We already up to that?

6 MR. GRACIE: Yes, sir.

7 MR. YOUNG: It's me. I'd like to -- I'll be  
8 as brief as I can. At our last meeting we were told  
9 that the Sport Fish Advisory Commission had voted to  
10 recommend that the Department pursue a moratorium on  
11 the river herring. And my understanding is that that's  
12 a complete moratorium in the Bay.

13 MR. GRACIE: Yeah. No by-catch allowed.  
14 That was one of the options, with or without by-catch.

15 MR. YOUNG: That was one of your options?

16 MR. GRACIE: It was one of the options we  
17 discussed. It's not the one we agreed upon.

18 MR. YOUNG: I was understanding that no --  
19 that was not discussed. My concern here is that --  
20 well, we also voted for a moratorium at our last  
21 meeting, but we did also vote for a limited by-catch

1 below the Bay Bridge. And the reason for that is with  
2 the new counting system and the new program of  
3 suspensions of licenses, if a complete moratorium is  
4 put into effect, the Department could put it into  
5 effect as an endangered species thing. And if they do  
6 that and a commercial fisherman is caught with just one  
7 herring, he can lose his license for 60 days.

8 And what we want to do is try to keep our  
9 guys from losing their livelihood because they made a  
10 mistake. When a man's fishing a pound net -- and I  
11 don't know how many of you guys have ever been  
12 alongside a pound net, but he's bailing a lot of fish.  
13 And it's awful easy for one fish to get caught or two  
14 fish.

15 So what I was wondering is -- and this is --  
16 these guys don't know anything about this, this is just  
17 something that was weighing on my mind, that I thought  
18 that I might ask you guys to revisit that with the  
19 consideration of maybe allowing a minimal by-catch to  
20 keep these guys working so that they don't just --  
21 'cause one fell in the bilge and they got caught with

1       it, that they lose their license for 60 days.

2                   MR. GRACIE:   How do you define "limited by-  
3       catch"?

4                   MR. YOUNG:    Maybe a hundred pounds a day.

5                   MR. SIMMS:   That's one of the things we  
6       agreed on was hundred pounds a day.

7                   MR. GRACIE:   That was part of your motion?

8                   MR. YOUNG:    We didn't agree on --

9                   MR. O'CONNELL:  There was no limit specified  
10       in the motion.

11                   MR. YOUNG:    We thought we did.

12                   MR. O'CONNELL:  We've got it right here in  
13       front of me.

14                   MR. YOUNG:    That would be --

15                   MR. WOMMACK:   What is the average weight of  
16       one herring?

17                   MR. SIMMS:    A quarter of a pound, third of a  
18       pound.  If 300 fell in the bilge.

19                   MR. GRACIE:   So that would be three or four  
20       hundred fish per day per pound, then, right?

21                   MR. GROSS:    No.  What this --



1                   VOICE: That's a lot of fish.

2                   MR. GROSS: No. No. No. No. But when  
3   you're bailing a pound net for bait, the herring are  
4   mixed in with the bait. You bail in four or five  
5   hundred bushel of bait. A hundred pounds is two  
6   bushel. That's it. It's not even two bushel. It's  
7   not even two bushel baskets. A bushel weighs 80  
8   pounds.

9                   But let's just say, for the sake of argument,  
10   it's two bushel out of four or five hundred bushel of  
11   bait. And that's what we're trying -- we're not  
12   worried about what falls in the bilge. What we're  
13   worried about is a man out there, you got to get your  
14   bait to shore when it's hot in the summertime. You got  
15   to get it to shore as fast as you can. You can't cull  
16   from five hundred bushel of bait to get two bushel of  
17   alewives -- I mean, two bushel of herring out of it.

18                  MR. GRACIE: Why -- did you make a  
19   distinction below the Bay bridge?

20                  MR. GROSS: Yes.

21                  MR. GRACIE: Why?

1 MR. GROSS: Because --

2 MR. GRACIE: Why not -- why just below?

3 MR. YOUNG: That's where most of the --

4 MR. GROSS: Because we figured that we would  
5 give up the upper Bay fishery. There's not many pound  
6 netters in the upper Bay. There are not many -- and  
7 they don't catch any herring up there. Danny Baker was  
8 at the last meeting. He'd fished 15 nets that day. He  
9 had one herring.

10 MR. O'CONNELL: Do you know why that was?

11 'Cause I went out with Danny to learn why. Is it  
12 because he sets -- there's mesh size so the the river  
13 herring can escape those nets.

14 MR. GRACIE: Because he's not trying to catch  
15 bait.

16 MR. GROSS: Because he was not trying to  
17 catch bait.

18 MR. O'CONNELL: So it goes back to this by-  
19 catch issue. There may be mechanisms out there for  
20 which we can reduce by-catch and not impact the  
21 threatened fishery. There's a lot of work that needs

1 to go on on that, but -- and I interpreted Danny's  
2 point, too, that he's just not seeing the herring.

3 Well, the reason he's not seeing the herring  
4 is because he's setting his nets up to allow the escape  
5 of the herring.

6 MR. GROSS: But on his alewife nets. You  
7 have a totally different animal.

8 MR. SIMMS: I'll bet you that half the people  
9 in here can't tell the difference between an alewife  
10 and a herring. It's just a pile of fish. They look  
11 basically the exact same size. So you can't make your  
12 mesh size to get rid of the herring, because then you  
13 get rid of the bait fish. The only reason Danny got  
14 rid of them is because he's not trying to catch bait  
15 fish.

16 So anybody who is trying to catch bait is  
17 going to have a problem with a herring or two being in  
18 with -- you're catching a ton of alewives. You got to  
19 have them quick, and you might have 50 herring in the  
20 whole thing.

21 MR. GRACIE: Let me see if we have some

1 questions for you over here.

2 MR. SIMMS: You might get 25 of them out, but  
3 you might miss 25 of them. That's what the whole  
4 thing's all about.

5 MR. GRACIE: I don't want to get us bogged  
6 down in procedure, here, on a motion to reconsider. So  
7 I want to see if there are questions that you can  
8 answer before we -- before I ask for the motion. Bill,  
9 did you have something?

10 MR. GOLDSBOROUGH: No. I pass.

11 MR. GRACIE: Any other questions from the  
12 Sport Fish Commissioners?

13 MR. COBURN: I don't think we need to know  
14 what an alewife is. Scientists say that it's depleted  
15 to historic lows. If that's the case, we should be on  
16 the conservative side and want to save it for the  
17 future. That's how I look at it.

18 MR. GRACIE: Val.

19 MR. LYNCH: If you were to propose a motion,  
20 how would you structure that by-catch? I'm  
21 (unintelligible) on what Jim is saying. But

1 specifically, would you go by pounds? Could you go by  
2 numbers? Could you go by percentage?

3 MR. SIMMS: Pounds.

4 MR. LYNCH: Or would that tie it -- if you go  
5 by pounds and tie it in with enforcement? Is that it?

6 MR. GROSS: Yes. Because there's no  
7 tolerance on fish. One fish gets you a ticket.

8 MR. LYNCH: No. I understand that. I'm  
9 going from there to, okay, let's consider a by-catch.  
10 And how would that be enforced? Would NRP carry scales  
11 to weigh these? Or would this be done at the dock? Or  
12 how would --

13 MR. SIMMS: Well, it's easy enough, because  
14 if I make it -- if you go to the pound of fish, because  
15 you must remember, these fish are loose in the bait.  
16 So he's going to have to cull through these fish.

17 MR. VAN ALSTINE: There's already a  
18 mechanism. The rock fish industry are measured by  
19 pounds. They're allowed a quota in poundage on your  
20 rockfish industry when you're targeting the rockfish.  
21 So apparently, the NRP has a system already in place

1       that they can (unintelligible) on the river.

2               MR. GRACIE:  No.  That happens at the check  
3       station.

4               MR. VAN ALSTINE:  But if they get to the  
5       check station and they're over, they're over at that  
6       point.

7               MR. GRACIE:  That's a violation.

8               MR. SIMMS:  Yeah, but it doesn't happen at  
9       the check station now.  You've got a poundage of  
10      rockfish -- 800 pounds a day.  They have -- they can  
11      check you.  I mean they -- yes.  They've dragged scales  
12      on the boat.  You have a poundage.  You can't be over  
13      that poundage on rockfish.  They can drag scales on the  
14      boat.  I've seen them done that -- I've had it done.

15              MR. LYNCH:  Okay.  But that would mean -- and  
16      you mentioned four or five hundred bushel a day?

17              MR. SIMMS:  Yeah.

18              MR. LYNCH:  Okay.  That would mean for an  
19      officer to go through four or five hundred bushels and  
20      then weigh.  First of all, to cull, and then to weigh.  
21      I mean, that's --

1           MR. SIMMS: They do it by percentage. If you  
2 got a load, they take a bushel basket and say, ok, you  
3 got five fish in here that don't belong in here. So  
4 they multiply it out. They don't go and do every  
5 bushel basket.

6           MR. LYNCH: They do a sample.

7           MR. SIMMS: They do a sample.

8           MR. LYNCH: Okay.

9           MR. SIMMS: Just like you do with oysters.  
10 When they cull oysters, they take a sample out of your  
11 catch. And you're allowed five percent undersized.

12          MR. SIMMS: And then go to the by-station,  
13 and they come up the conveyor, they could pick up --  
14 they do it with oysters.

15          MR. GRACIE: Did that answer your question,  
16 Val?

17          MR. LYNCH: Yes. It does.

18          MR. GRACIE: Mac.

19          MR. WOMMACK: Well, my thing was maybe, you  
20 know, maybe the Commission could take that into  
21 consideration, and maybe splitting it with them. They

1 say 300 pounds. Is that what you said?

2 MR. SIMMS: No. I'm talking a hundred  
3 pounds.

4 MR. GRACIE: He said a hundred pounds. He  
5 said that would be 300 fish.

6 MR. WOMMACK: Well, I don't know, could we  
7 take into consideration halfway splitting it with them?

8 MR. GRACIE: Dave.

9 MR. SIKORSKI: I have a few questions. I  
10 think the reported catch, there's -- one cast netter  
11 reports 65 percent of the upper Bay catch of herring is  
12 sitting at this table. So we have 35 percent left  
13 over. Am I correct in thinking that that is all by-  
14 catch and it's all caught by the pound net -- the  
15 majority of it at least? Am I right on that.

16 MR. GROSS: Well, that's why we put the  
17 moratorium --

18 MR. SIKORSKI: Is that about right? The  
19 pound nets catch that other 35 percent?

20 MR. SIMMS: Yeah, but in the lower Bay --

21 MR. SIKORSKI: I mean, I'm not holding you to



1     it.  I'm just asking.

2                 MR. SIMMS:  Yeah, in the lower Bay, probably.

3                 MR. SIKORSKI:  So, and we're talking, like, I  
4     think it's like 10,000 pounds?  Does that sound right?

5                 MR. GRACIE:  Is that what it was?

6                 MR. SIKORSKI:  That's a hundred hundred.

7                 MR. SIMMS:  I don't know what the total is.

8                 MR. GRACIE:  Where are you getting these  
9     figures?

10                MR. SIKORSKI:  From the presentation --

11                MR. GRACIE:  From last month?

12                MR. SIKORSKI:  -- from last month.  So what  
13     I'm saying is it's a hundred hundred.  So what you're  
14     saying is that you haul -- how many pound nets are  
15     there in the Bay -- estimate, rough, very rough.

16                So all I'm saying is if it's a hundred pounds  
17     of herring that you want to be allowed, that means in  
18     order for this -- the catch numbers -- to match your  
19     catch numbers that you're saying now in by-catch means  
20     a hundred bushels or a hundred -- I'm sorry, a hundred  
21     pounds 100 times.  I find it hard to believe that

1       that's all the herring that's being caught.

2               MR. SIMMS:  No.  There's more herring being  
3       caught than what we're asking for.

4               MR. SIKORSKI:  I know.  They're not being  
5       reported is what I'm saying.  So we've already got a  
6       bigger issue here of accountability of the catching  
7       that's going on, because the numbers that the  
8       Department has on herring say that you're only catching  
9       a hundred pounds a hundred times.  And you're telling  
10      me you want a hundred pounds per day --

11              MR. SIMMS:  Yeah, but --

12              MR. SIKORSKI:  -- times the entire State of  
13      Maryland and all the pound nets out there?  Are you  
14      telling me that?

15              MR. SIMMS:  Yeah, but that -- yeah.  But wait  
16      a minute.  You don't catch herring in every net  
17      everyday.

18              MR. SIKORSKI:  Okay.

19              MR. SIMMS:  You net the herring at different  
20      places at different times.  So maybe he catches herring  
21      this week, and maybe I catch herring next week, though

1 in a different place. Every net's not catching  
2 herring everyday.

3 MR. SIKORSKI: Well, when are herring in the  
4 Bay?

5 MR. SIMMS: Spring --

6 MR. SIKORSKI: Till when?

7 MR. GROSS: I've got nets that catch nothing  
8 but rockfish. The mesh size -- I mean, you can't count  
9 pound nets, because we take different nets to do  
10 different things. You know, we got different mesh size  
11 of net that you catch croakers and rockfish in, you  
12 don't catch herring in. So --

13 MR. SIKORSKI: I understand that. What I'm  
14 getting at is we have a bigger problem here. It's not  
15 just herring by-catch, because nets in the water right  
16 now are catching spawning rockfish, shad, herring.  
17 What else? I'm just wondering.

18 MR. SIMMS: You can't catch shad. You can't  
19 catch rockfish.

20 MR. SIKORSKI: You can't sell them.

21 MR. SIMMS: You can't sell them.

1                   MR. SIKORSKI: You can't sell them. You can  
2 catch them.

3                   MR. GROSS: But aren't they --

4                   MR. SIMMS: But you're talking about a  
5 different fish that looks a whole lot different than  
6 the bait fish.

7                   MR. SIKORSKI: I understand. But you can't  
8 sell them. You can catch them.

9                   MR. GROSS: But we turn them loose.

10                  MR. SIMMS: A lot --

11                  MR. GROSS: Trophy season, when you catch a  
12 27 and 3/4 inch rockfish, and gut hook him, you kill  
13 him. I go down there take my pound net, I turn them  
14 loose. I turn the rock loose. They're gone. They're  
15 swimming. They're free.

16                  MR. GRACIE: I'm trying to get questions  
17 answered to see if we want to have a motion. So, Tom,  
18 did you want to say something.

19                  MR. O'CONNELL: Yes. Just listening to this  
20 discussion, I'm wondering if you guys are thinking that  
21 river herring is specific to just the river herring and

1 not alewives.

2 MR. GRACIE: You don't need to know the  
3 difference. They're all --

4 MR. O'CONNELL: Because --

5 MR. GRACIE: -- they're all --

6 MR. O'CONNELL: -- because the ASMFC  
7 requirement, when they refer to "river herring",  
8 they're talking about alewives and river herring. It's  
9 both species. So we're talking about either the  
10 State's having to come up with a sustainable fisheries  
11 management plan for those two species or have a  
12 moratorium put in place.

13 MR. VAN ALSTINE: On both the species.

14 MR. O'CONNELL: On both of those species.  
15 The second point that I want to mention is that it's  
16 not solely about trying to figure out what an  
17 acceptable catch limit is. ASMFC was very clear as to  
18 there's going to be a certain requirement that states  
19 are going to have to do in order to meet the  
20 sustainable fisheries management definition. And  
21 that's monitoring requirements, it's establishing

1 management triggers to assess the population to see if  
2 the population is growing or not, things that we don't  
3 currently have in place and we'll be required to  
4 implement.

5 So it's not just -- we have to put forth a  
6 monitoring plan to also meet the sustainable fisheries  
7 definition, not simply, you know, a poundage --

8 MR. SIMMS: It was river herring.

9 MR. SIMMS: Tom, what's your answer to the  
10 problem of when you bail menhaden and you've got a  
11 dozen river herring that slipped through that you don't  
12 see? What's your answer to that? Do we just lose our  
13 license when the cop comes along and takes them?

14 MR. O'CONNELL: No.

15 MR. SIMMS: What's your answer to that?  
16 That's what we're trying to get. We're trying to  
17 figure out a way --

18 MR. O'CONNELL: Sure.

19 MR. SIMMS: -- that somebody doesn't lose his  
20 license, because you've made things so strict now that  
21 you're going to lose your license if you get caught

1 with one fish. When you talk about a fish that looks  
2 like a menhaden -- it's the same size and everything  
3 else, and you get a ton of fish and one fish is going  
4 to be in that load, how are you going to address that?

5 MR. O'CONNELL: Well, I mean, to just kind of  
6 let you know where we are. As you know, my staff is  
7 advocating for a harvest moratorium. And there are  
8 good reasons to do that. What concerns me with some of  
9 the motions that I've heard in the last couple of  
10 months is the inequity thing. You know, one part of  
11 the industry that's directing this fishery is shut out,  
12 and they other fishery is allowed a by-catch with very  
13 little incentive to reduce by-catch.

14 So what we're doing at this point in time is  
15 I directed my staff to spend some time researching to  
16 see if there's ways to reduce that by-catch. Potomac  
17 River Fisheries Commission has implemented some cull  
18 panels and found that working with Daniel Black and  
19 looking at mesh restrictions and trying to get out and  
20 talking to the industry.

21 We're not at this point in time going to make

1 a decision for this June deadline by ASMFC this year.  
2 We ultimately have until next June to make that  
3 decision. We're going to hold off. We're going to  
4 decide which of these issues -- we're going to try to  
5 evaluate how we address this by-catch issue. And  
6 hopefully there's a way out there that we can reduce  
7 the by-catch and also allow maybe some small tolerance  
8 so that it doesn't put the commercial guy --

9 MR. SIMMS: That's all we're asking for.  
10 We're not asking --

11 MR. GROSS: I mean, if we could get some  
12 tolerance.

13 MR. SIMMS: We're not asking to just so we  
14 can make money off of it. We're asking to have a  
15 tolerance. And the thing about net restrictions and  
16 stuff, herring and menhaden are the exact same size.  
17 And they'll go through the same hole. You make a hole  
18 that the herring can go through, menhaden will go  
19 through. So --

20 MR. GRACIE: We understand that, Larry. I  
21 got four minutes left, and we have to get out of here.



1 I'm going to see if we have a motion. We've made a  
2 resolution, and we passed this motion at our last  
3 meeting. And the proper procedure is to see if we have  
4 a motion to reconsider. Does somebody from the Sport  
5 Fish Advisory Commission want to make a motion to  
6 reconsider this position?

7 (No response.)

8 MR. GRACIE: Then it doesn't change.

9 We've got four minutes left. I'd like to ask  
10 for public comments. And I'm embarrassed that I didn't  
11 ask for it before we voted on that one motion. I  
12 should have, and Jack did.

13 Are there any public comments? Ken.

14 MR. HASTINGS: I assume that this issue of  
15 the by-catch thing is dead because you didn't get a  
16 motion?

17 MR. GRACIE: We're not going to change our  
18 position. That's what that means.

19 MR. HASTINGS: I would like to complement the  
20 Natural Resources Police. I belong to a group of  
21 people who bought a fishing hole along Mattawoman Creek

1 in Charles County. And it's a very popular place. And  
2 I have been there four times in the last week to go  
3 fishing and also to check it. And I have met an NRP  
4 officer there every time I've showed up.

5 I know there's some -- there's some  
6 recreational guys there who are violating laws and all,  
7 and they're writing tickets right and left. And I just  
8 want to say we really appreciate that. Fishermen, in  
9 general, appreciate that, and as a property owner  
10 there, I really appreciate that. Thank you.

11 MR. GRACIE: Thank you, Ken. Any other  
12 public comments?

13 (No response.)

14 MR. GRACIE: If not, we're adjourned.

15 (Whereupon, at 9:01 p.m., the above-  
16 entitled meeting was adjourned.)

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